

00001

1

2

3

4

SOUTHCENTRAL ALASKA FEDERAL SUBSISTENCE  
REGIONAL ADVISORY COUNCIL MEETING

6

7

VOLUME I

8

9

DAY'S INN CONFERENCE ROOM  
ANCHORAGE, ALASKA

10

11

12

MARCH 23, 1999

13

14 MEMBERS PRESENT:

15

16 Mr. Ralph Lohse, Chairman

17 Mr. Fred John, Jr., Vice Chairman

18 Ms. Clare Swan, Secretary

19 Mr. Donald Kompkoff, Sr.

20 Mr. Gilbert Dementi

21 Mr. Benjamin E. Romig

22

23 Ms. Helga Eakon, Coordinator

00002

P R O C E E D I N G S

(On record - 8:25 a.m.)

CHAIRMAN LOHSE: I'd like to call the meeting of the Southcentral Alaska Subsistence Regional Advisory Council to order. At this time we'll have a roll call and establishment of a quorum.

MS. EAKON: Gilbert Dementi.

MR. DEMENTI: Here.

MS. EAKON: Donald Kompkoff, Sr.

MR. KOMPKOFF: Here.

MS. EAKON: Ben Romig.

MR. ROMIG: Here.

MS. EAKON: Roy Ewan.

(No audible response)

MS. EAKON: Clare Swan.

MS. SWAN: Here.

MS. EAKON: Fred John, Jr.

MR. F. JOHN: Here.

MS. EAKON: Ralph Lohse.

CHAIRMAN LOHSE: Here.

MS. EAKON: Six present, one absent, a quorum is established, Mr. Chair.

CHAIRMAN LOHSE: We'd like to take this opportunity to welcome all of you here to and to thank those who came to testify and those who came to listen and those that did the work to prepare for this. We have a way to testify if anybody wants to, and we'll take testimony any time during the meeting. You just go back and fill out a pink card and hand it in and we will give you that opportunity at any time.

We have a fairly full agenda, we're going to go to

00003

1 5:00 o'clock this evening and we'll start at 8:00 o'clock  
2 again tomorrow morning and go till we finish tomorrow. I'd  
3 like to thank you all, again, for being here. And thank  
4 Helga for all the work that she's done for each of us that  
5 are right here.

6  
7 And with that, we'll take a look at the agenda and  
8 see if there are any changes that need to be made and adopt  
9 the agenda that's in front of us.

10  
11 MR. KOMPKOFF: Mr. Chairman, on page -- on L,  
12 page nine, we have a misspelling of V-l-a-s-o-f-f.

13  
14 CHAIRMAN LOHSE: Okay, Don, is that under the  
15 minutes or under the agenda?

16  
17 MR. KOMPKOFF: It's under the.....

18  
19 CHAIRMAN LOHSE: That's on the minutes,  
20 right?

21  
22 MR. KOMPKOFF: Yeah.

23  
24 CHAIRMAN LOHSE: Okay. Can we hold off on  
25 that just for a second until we get the agenda taken care of?

26  
27 MR. KOMPKOFF: Okay.

28  
29 CHAIRMAN LOHSE: So that's on page eight  
30 [sic], I'll mark that right now.

31  
32 Okay. Let's take a look at our agenda. Helga, have  
33 you got any additions or changes that you would like to add  
34 to our agenda at this point in time?

35  
36 MS. EAKON: Mr. Chair, right after reviewing  
37 the adoption of the September minutes, Janice Collins, who is  
38 our Administrative Officer, will take a few moments to  
39 explain to you the new funds transfer system before we go  
40 into public testimony.

41  
42 And also, if you look on page four and five of your  
43 agenda, Hollis Twitchell requests to present Proposal 25  
44 before Don Callaway presents Proposal 9 and 11.

45  
46 And those are the only two changes I have.

47  
48 CHAIRMAN LOHSE: Okay. So you'd like to  
49 reverse 25, 9 and 11?

50

00004

1 MS. EAKON: Yes, uh-huh.

2

3 CHAIRMAN LOHSE: Okay. Are there any changes  
4 requested by any members of the Board?

5

6 (No audible responses)

7

8 CHAIRMAN LOHSE: If not, a motion to adopt  
9 the agenda is in order.

10

11 MR. F. JOHN. I move we adopt the agenda with  
12 the changes.

13

14 MR. KOMPKOFF: I'll second the motion.

15

16 CHAIRMAN LOHSE: It's been seconded by Don.  
17 Questions or discussion?

18

19 MS. SWAN: Question's been called. All in  
20 favor signify by saying aye.

21

22 IN UNISON: Aye.

23

24 CHAIRMAN LOHSE: All opposed signify by  
25 saying nay.

26

27 (No opposing responses)

28

29 CHAIRMAN LOHSE: Motion carries.

30

31 Okay, at this point in time we to the review and the  
32 adoption of minutes of September public meeting on September  
33 29th and September 30th.

34

35 And, Don, that's where we need to change what you  
36 were talking about.

37

38 MR. KOMPKOFF: Yeah. Page nine, line seven,  
39 on L.

40

41 CHAIRMAN LOHSE: Page nine, line seven.

42

43 MR. KOMPKOFF: They got misspelling of.....

44

45 CHAIRMAN LOHSE: Oh, yeah, I got it right  
46 there.

47

48 MR. KOMPKOFF: .....Vlasoff.

49

50 CHAIRMAN LOHSE: And that should be?

00005

1 MR. KOMPKOFF: V-l-a-s-o-f-f.

2  
3 CHAIRMAN LOHSE: V-l-a-s-o-f-f?

4  
5 MR. KOMPKOFF: Right.

6  
7 MS. EAKON: V-l-a-s-o-f-f.

8  
9 CHAIRMAN LOHSE: Okay.

10  
11 MR. KOMPKOFF: And then on page 12, paragraph  
12 three, same thing. Vlasoff is spelled wrong. On Tab P, on  
13 the third line of the third paragraph

14  
15 CHAIRMAN LOHSE: Where's this now?

16  
17 MR. KOMPKOFF: On Tab P.

18  
19 MS. MASON: Oh, Tab P.

20  
21 MR. KOMPKOFF: Third paragraph, third line.

22  
23 MS. MASON: That's in the proposal.

24  
25 MS. SWAN: Tab P, page what?

26  
27 CHAIRMAN LOHSE: Page what in Tab P?

28  
29 MR. KOMPKOFF: Page 12.

30  
31 CHAIRMAN LOHSE: Okay, yeah.

32  
33 MS. MASON: Okay.

34  
35 CHAIRMAN LOHSE: There it's spelled properly,  
36 right?

37  
38 MS. SWAN: No.

39  
40 MR. KOMPKOFF: No, it's got V-l-a-s-o-f.

41  
42 CHAIRMAN LOHSE: Okay. Yeah, got you. Okay.  
43 Any others, Don?

44  
45 MR. KOMPKOFF: No, that's it.

46  
47 CHAIRMAN LOHSE: Any other members of the  
48 Board got anything that needs change on the minutes?

49  
50 (No audible responses)

00006

1 CHAIRMAN LOHSE: I'd like to make comment on  
2 them, I think they're well done and very complete. If there  
3 are no further comments a motion to adopt is in order.

4  
5 MS. SWAN: So moved.

6  
7 MR. DEMENTI: Second.

8  
9 CHAIRMAN LOHSE: It's been moved and seconded  
10 to adopt the minutes of September 29th and 30th, 1998  
11 meeting.

12  
13 MR. F. JOHN. Question.

14  
15 CHAIRMAN LOHSE: Question's been called. All  
16 in favor signify by saying aye.

17  
18 IN UNISON: Aye.

19  
20 CHAIRMAN LOHSE: All opposed signify by  
21 saying nay.

22  
23 (No opposing responses)

24  
25 CHAIRMAN LOHSE: Motion carries.

26  
27 At this point in time it's been pointed out to me  
28 that I skipped one thing in the welcome, and that is I didn't  
29 do any introductions, so I'd like to, before Janet [sic]  
30 speaks, I'd like to take this opportunity to ask all of the  
31 Council members and guests and people who are going to speak  
32 just to introduce themselves. And we'll just start at this  
33 end of the table, then we'll go around here and start on the  
34 front line and just zig-zag our way back.

35  
36 COURT REPORTER: I'm Joe Kolasinski, court  
37 reporter.

38  
39 MR. KOMPKOFF: I'm Don Kompkoff, sitting on  
40 the Board for Southcentral Advisory Council and working out  
41 of Valdez.

42  
43 MS. SWAN: Clare Swan, I'm on the Subsistence  
44 Regional Advisory Council, Southcentral, I'm from Kenai.

45  
46 CHAIRMAN LOHSE: Ralph Lohse, current Chair.  
47 I'm from Cordova and Chitina.

48  
49 MR. F. JOHN. Fred John, Jr., Mentasta, Vice  
50 Chair.

00007

1 MR. ROMIG: Ben Romig, Cooper Landing.

2

3 MR. DEMENTI: Gilbert Dementi, Cantwell.

4

5 MS. EAKON: Helga Eakon, Regional Council  
6 Coordinator.

7

8 MS. MASON: Rachel Mason, anthropologist and  
9 I work in the Federal Subsistence Management Office here in  
10 Anchorage.

11

12 MR. WILLIS: Robert Willis, wildlife  
13 biologist for the Southcentral Region, also in the Federal  
14 Subsistence Management Office.

15

16 MS. COLLINS: I'm Janice Collins and I'm the  
17 Admin Officer for Subsistence.

18

19 MR. GAVITT: I'm John Gavitt, I'm the  
20 Assistant Regional Director for law enforcement for Fish and  
21 Wildlife Refuge.

22

23 MR. KNAUER: I'm Bill Knauer, regulation  
24 policy specialist in the Office of Subsistence Management.

25

26 MR. BOYD: Tom Boyd, Assistant Regional  
27 Director, Office of Subsistence Management.

28

29 MR. MARCOTIE: I'm Jim Marcotie, Fish and  
30 Game Board support from Fairbanks.

31

32 MR. DOLCHOK: Emil Dolchok, Kenaitze Native,  
33 Kenai, Alaska.

34

35 MR. ELLIOTT: Dan Elliott, Mat-Valley  
36 Advisory Committee.

37

38 MR. McDONALD: Mike McDonald with the Fish  
39 and Game here in Anchorage, Wildlife Conservation.

40

41 MR. HAYNES: Terry Haynes, Department of Fish  
42 and Game, Subsistence Division, Fairbanks.

43

44 MR. TAUBE: Tom Taube, Fish and Game  
45 Fisheries Division, Glennallen.

46

47 MR. SUMMERS: Clarence Summers, National Park  
48 Service, Anchorage office.

49

50 MR. TWITCHELL: Hollis Twitchell, Denali

00008

1 National Park.

2

3 MS. BECKER: Brenda Becker, BLM, Glennallen.

4

5 MS. FOX: Peggy Fox, BLM, Anchorage.

6

7 MR. HEUSCHKEL: Greg Heuschkel, Valdez Fish  
8 and Game Advisory.

9

10 MR. GALGINAITIS: Mike Galginaitis from  
11 (indiscernible - away from microphone)

12

13 MR. SHARP: Hunter Sharp, Chief Ranger,  
14 Wrangell-St. Elias National Park and Preserve.

15

16 MR. MITCHELL: Carl Mitchell, wildlife  
17 biologist, Wrangell-St. Elias National Park and Preserve.

18

19 MS. SWIDERSKI: Kathy Swiderski, Department  
20 of Law.

21

22 MR. NORRIS: Frank Norris, National Park  
23 Service, Anchorage.

24

25 MS. SMAGGE: Rita Smagge, Kenaitze Native  
26 Tribe.

27

28 MR. M. EWAN: Morris Ewan, (indiscernible)  
29 village.

30

31 MS. KING: Martha King, Native American  
32 Rights Fund.

33

34 MS. DANIEL: Carol Daniel, I'm an attorney  
35 here in Anchorage.

36

37 MR. ASCHENBRENNER: Lare Aschenbrenner,  
38 Native American Rights Fund.

39

40 MR. SHOWALTER: James Showalter, Kenaitze  
41 Chairman.

42

43 MS. GAGNON: June Gagnon, Kenaitze Tribe.

44

45 MR. BALDWIN: Allan Baldwin, Kenaitze Indian  
46 Tribe, Kenai.

47

48 MR. GOODLATAW: Johnny Goodlataw, CRNA.

49

50 MS. DeWITT: Cathy DeWitt, CRNA.

00009

1 MS. STICKWAN: Gloria Stickwan  
2 (indiscernible)

3  
4 MR. PETE: Carl Pete, Native Village  
5 (indiscernible) and Copper River Native Association.

6  
7 MS. BOTTORFF: Mary Lou Bottorff, Kenaitze  
8 Indian Tribe, Kenai.

9  
10 MS. SHAW: Liisia Shaw, Kenaitze Indian  
11 Tribe, Kenai.

12  
13 MS. HENDRYX: Elsie Hendryx, Kenaitze Indian  
14 Tribe, Kenai.

15  
16 MS. LINDGREN: Alexandra Lindgren, Kenaitze  
17 Indian Tribe, Kenai.

18  
19 MR. SHERROD: George Sherrod, Fish and  
20 Wildlife Service, Fairbanks.

21  
22 MR. CARPENTER: Tom Carpenter, Copper  
23 River/Prince William Sound Advisory Committee.

24  
25 CHAIRMAN LOHSE: Okay. Thank you all for  
26 introducing yourself to each other and now we have an idea,  
27 at least, if we can remember of who we all are. Don't expect  
28 me to remember everybody names, I can't even remember my  
29 kids' names, let alone everybody else, but at least it gives  
30 us a starting point.

31  
32 At this point in time Helga asks that we have Janet  
33 [sic] talk to us a little bit on -- I think it's just an  
34 admin problem or an admin thing.

35  
36 REPORTER: Janice, you're up.

37  
38 MS. COLLINS: Good morning, Council members.  
39 I have some paperwork here the I'm going to be giving you.  
40 January 1st the Federal government passed a law on the Debt  
41 Collection Improvement Act. Under this law the Treasury does  
42 not want to issue check anymore, so what we've got here is  
43 some forms for you and travel payments that we currently pay  
44 you where we file your travel vouchers and you usually  
45 receive a check, the new provisions for that would be, if you  
46 have an account in a financial institution the money would be  
47 directly deposited to your account. If you do not have a  
48 financial account, then we have a waiver the you can sign and  
49 we will continue to pay you the way we are.

50

00010

1           So I'll be passing these forms out to you. If you  
2 could look them over. What I've been doing to a lot of the  
3 other Councils to save you a lot of running around, if you  
4 put your financial institution on the form, if you have one,  
5 and your account number, I've been taking them to the bank  
6 and getting them signed off and getting them processed and  
7 that saves you running to the bank. So I will give these to  
8 you and if you could look them over, if you have your account  
9 numbers with you and you want -- and you choose to do this  
10 this way, then we can get them processed for you right away.  
11 I am having to hold vouchers until I either have a waiver or  
12 an electronic deposit form, so the sooner we get these done  
13 the better we are.

14  
15           Thank you.

16  
17           CHAIRMAN LOHSE: Any questions for Janice?

18  
19           (No audible responses)

20  
21           CHAIRMAN LOHSE: Okay, thank you. You can  
22 tell we're almost in the year 2000.

23  
24           Okay. At this point in time we have public  
25 testimony. Do we have any more public testimony slips back  
26 there?

27  
28           MS. COLLINS: Yes, we do.

29  
30           CHAIRMAN LOHSE: We do. For tomorrow?

31  
32           MS. EAKON: Yes.

33  
34           CHAIRMAN LOHSE: Okay. What we have is we  
35 have a stack of testimony slips here and I haven't looked at  
36 them and I don't like to give anybody preferential order, so  
37 I'm just going to throw them down in front of me and pick out  
38 of them randomly. Now, we're going to be dealing with the  
39 Kenai issue shortly and there is a spot for public testimony  
40 on the Kenai issue, so if you would prefer when your name is  
41 called to wait until that issue comes up you can just ask to  
42 defer you slip and I'll just stick it on a stack to save it  
43 for the Kenai issue.

44  
45           If you would prefer to save it for later in the  
46 process, if there are things you specifically want to speak  
47 to and you would prefer to speak at the time that that issue  
48 comes up on the agenda you can ask me to defer it. If you  
49 just would like to speak at this point in time, so that you  
50 don't have to stick around for the whole meeting, you can

00011

1 speak when your name is called.

2

3 I'm just going to go through the slips and grab one  
4 out, and it's up to you whether you want to speak now,  
5 whether you want to wait till the issue comes up or whatever,  
6 so the first one that we have here is Mary Lou.....

7

8 MS. BOTTORFF: Bottorff.

9

10 CHAIRMAN LOHSE: .....Bottorff. Do you want  
11 to speak on the Kenai issue?

12

13 MS. BOTTORFF: Yes.

14

15 CHAIRMAN LOHSE: Okay. Well, I'll just put  
16 that off to one side then.

17

18 Susan E. Marrs.

19

20 MS. MARRS: Kenai issue.

21

22 CHAIRMAN LOHSE: Kenai issue. Elsie Hendryx.

23

24 MS. HENDRYX: Kenai issue.

25

26 CHAIRMAN LOHSE: Kenai issue. Geneva J.

27 Marin.....

28

29 MS. MARINKOVSKI: Marinkovski.

30

31 CHAIRMAN LOHSE: .....Marinkovski.

32

33 MS. MARINKOVSKI: Kenai issue.

34

35 CHAIRMAN LOHSE: Kenai issue. And if I

36 massacre some of these names, correct me. Alexandra M.

37 Lindgren.

38

39 MS. LINDGREN: Kenai issue, please.

40

41 CHAIRMAN LOHSE: Kenai issue. Bennie Julisen

42 [sic].

43

44 MS. SWAN: Juliussen, Bonnie.

45

46 CHAIRMAN LOHSE: Bonnie. Bonnie Juliussen.

47 I better put my glasses on.

48

49 MS. JULIUSSEN: Kenai issue.

50

00012

1 CHAIRMAN LOHSE: Okay. I will put my glasses  
2 on. Sorry, folks. Amanda Sonju.

3  
4 MS. SONJU: Kenai issue.

5  
6 CHAIRMAN LOHSE: Okay, Kenai issue. Archie  
7 J. Minkler.

8  
9 MR. MINKLER: Kenai issue.

10  
11 CHAIRMAN LOHSE: Kenai issue, okay. Liisia  
12 Shaw.

13  
14 MS. SHAW: Kenai issue.

15  
16 MS. SWAN: Liisia.

17  
18 CHAIRMAN LOHSE: Liisia, okay. Getting  
19 close. Maybe what I should do is hand them to you, you know  
20 them.

21  
22 MS. SWAN: No.

23  
24 CHAIRMAN LOHSE: Arthur Moonin.

25  
26 MR. MOONIN: Kenai issue.

27  
28 CHAIRMAN LOHSE: Tom Carpenter. It says you  
29 need to testify before number 3.

30  
31 MR. CARPENTER: I can either testify now or  
32 if you're going to deal with -- if you're not going to get to  
33 Unit 11 proposals until tomorrow, I prefer to testify before  
34 the proposal gets to the table, but whatever works for you.

35  
36 CHAIRMAN LOHSE: Are you going to be sticking  
37 around for a while?

38  
39 MR. CARPENTER: I'll be here till the end of  
40 the meeting tomorrow.

41  
42 CHAIRMAN LOHSE: You'll be here till the end  
43 of the meeting, then we'll just save it for that issue.

44  
45 MR. CARPENTER: Okay.

46  
47 CHAIRMAN LOHSE: Allan Baldwin.

48  
49 MR. BALDWIN: Kenai issue.

50

00013

1 CHAIRMAN LOHSE: Kenai issue. We're going to  
2 have a lot of testimony there. June Gagnon.

3  
4 MS. GAGNON: The Kenai issue.

5  
6 CHAIRMAN LOHSE: Martha King.

7  
8 MS. KING: The Kenai issue.

9  
10 CHAIRMAN LOHSE: Carol H. Daniel.

11  
12 MS. DANIEL: Kenai issue.

13  
14 CHAIRMAN LOHSE: I kind of figured that one.

15 Rita.....

16  
17 MS. SWAN: Smagge.

18  
19 MS. SMAGGE: Smagge.

20  
21 CHAIRMAN LOHSE: .....Smagge.

22  
23 MS. SMAGGE: Kenai.

24  
25 CHAIRMAN LOHSE: James Showalter.

26  
27 MR. SHOWALTER: Kenai issue.

28  
29 CHAIRMAN LOHSE: Emil Dolchok.

30  
31 MR. DOLCHOK: Kenai issue.

32  
33 CHAIRMAN LOHSE: Okay. And Dan Elliott.

34  
35 MR. ELLIOTT: I'll wait for the individual

36 proposals.

37  
38 CHAIRMAN LOHSE: For which one?

39  
40 MR. ELLIOTT: The individual proposals.

41  
42 CHAIRMAN LOHSE: Okay.

43  
44 MR. ELLIOTT: For 13.

45  
46 CHAIRMAN LOHSE: Okay. I stick yours and Dan  
47 [sic] Carpenter's -- Tom Carpenter's over here.

48  
49 Okay. Well, it looks like most of our testimony is  
50 on the Kenai issue and that's where we're going to right now.

00014

1 So with that I will just stick these all aside and when we  
2 get to the public testimony part of the Kenai issue we'll  
3 have them in order.

4  
5 Okay, at this point in time we're going to have  
6 Rachel Mason give some background.

7  
8 MS. MASON: Thank you, Mr. Chairman. My  
9 presentation is basically the same briefing that was given at  
10 the public hearings on the Kenai Peninsula. I'm just going  
11 to give -- and for most people this will be a review, a  
12 history of the rural/nonrural issue on the Kenai Peninsula  
13 for the Federal Subsistence Program.

14  
15 In 1989 the Kenaitze decision. Yes.

16  
17 UNIDENTIFIED VOICE: I can't hear you.

18  
19 MS. MASON: Oh, is this on?

20  
21 REPORTER: Yes. Pull it a little close,  
22 please.

23  
24 MS. MASON: Okay. Can you hear me now?

25  
26 The Kenaitze decision in '89 concluded that rural  
27 needed to be redefined in State statutes. And the State  
28 defined a rural community as one where non-commercial  
29 customary and traditional use of fish and game for personal  
30 and family consumption is a principle characteristic of the  
31 economy.

32  
33 ANILCA doesn't explicitly define rural, but the  
34 Kenaitze decision interpreted Congress' intention in ANILCA  
35 to say that the term rural includes a large class of  
36 subsistence users, where as customary and traditional  
37 determinations would narrow the field of beneficiaries.

38  
39 Later in the same year, December 1989, the McDowell  
40 decision and the subsequent Federal take over of subsistence  
41 management preempted any action by the State regarding its  
42 definition of rural. The Federal Subsistence Program began  
43 in July 1990 and the program's regulations outlines the  
44 process of making rural determinations, taking the Kenaitze  
45 decision into consideration.

46  
47 Next there was a series of public hearings and  
48 research on the rural determination which were made using  
49 social, economic and population criteria. The first test was  
50 to aggregate the communities that should be considered as a

00015

1 single unit on the basis of community to work, common school  
2 district and regular shopping trips. Hence, for example, on  
3 the Kenai Peninsula, Moose Pass was aggravated with Seward.  
4 Those communities with fewer than 2,500 people were presumed  
5 rural. Communities with a population between 2,500 and 7,000  
6 might be either rural or nonrural and those with 7,000 or  
7 more people were presumed to be nonrural.

8  
9 For the communities that were in the middle category  
10 further criteria was used to evaluate their status, including  
11 the economy, the use of fish and wildlife, transportation,  
12 community infrastructure and the level of education that was  
13 available in a community.

14  
15 The Federal Subsistence Board made rural  
16 determinations in December 1990 and on the Kenai Peninsula,  
17 according to that decision, the rural communities were  
18 Ninilchik, Seldovia, Port Graham and Nanwalek in Unit 15.  
19 And then in Unit 7 they were Hope and Cooper Landing. But  
20 the plan was for all those determinations to be reviewed and  
21 reevaluated after the census in the year 2000, unless there  
22 were special circumstances that warranted an out-of-cycle  
23 review.

24  
25 And the Federal Subsistence Board initially adopted  
26 all the State customary and traditional recommendations or  
27 determinations and they had a plan to go around the state  
28 using -- doing the C&T determinations region by region. The  
29 Kenai Peninsula was the first region that was considered for  
30 customary and traditional use, and only the large land  
31 mammals were considered at that time.

32  
33 In the summer of 1995 public hearings were held  
34 around the Kenai Peninsula to gather testimony on the  
35 Customary and Traditional determination. And the  
36 rural/nonrural issue was not the focus of those hearings, but  
37 many of those who testified indicated that they were  
38 dissatisfied with the current rural determinations that were  
39 used in the Federal Program.

40  
41 And in September '95, this Council met in Anchor  
42 Point and passed a motion recommending that the entire Kenai  
43 Peninsula be considered rural. The Federal Subsistence  
44 Board, when they met to consider the recommendation, decided  
45 that the most appropriate course of action was for the  
46 Regional Council to hold public hearings on the Kenai  
47 Peninsula to allow for public comment on the proposals. And  
48 that the next Regional Council meeting a motion to hold  
49 hearings failed and no meetings were held.

50

00016

1           So that brings us up to the 1990 request from the  
2 Kenaitze Tribe, which asks that the entire Kenai Peninsula be  
3 made rural. And the effect of this request, if granted,  
4 would be that the Homer, Kenai, Soldotna and Seward areas,  
5 which are currently nonrural, would become rural.

6  
7           And Bill Knauer will bring you up to date on the  
8 Kenaitze Tribe's proposal.

9  
10           CHAIRMAN LOHSE: Bill.

11  
12           MR. KNAUER: Thank you, Mr. Chairman. You  
13 just heard Rachel tell you about how parts of the Kenai  
14 Peninsula came to be designated nonrural. I'm going to  
15 explain a little bit about how the process goes forward from  
16 here. And I'll start off with just a tiny bit of background  
17 information.

18  
19           In August 1998, the Board replied to this Regional  
20 Council regarding the Kenaitze Tribe for rural  
21 recommendation. A copy of that response letter is in your  
22 notebook under Tab M, I believe. The Board believes that  
23 your thoughtful deliberation and recommendation requires a  
24 more complete discussion throughout the Kenai Peninsula. The  
25 Board stated in that letter that fuller public input and a  
26 clear rationale describing the special circumstances before  
27 consideration, outside of the standard cycle, are necessary  
28 before the Board would be willing to consider the request for  
29 a change rural determinations on the Peninsula.

30  
31           Therefore, in late spring, early summer, this Council  
32 conducted a set of three public hearings to collect  
33 information on a special circumstances that would warrant  
34 Board consideration outside of the standard cycle and to  
35 receive public comments regarding the rural/nonrural nature  
36 of the Kenai Peninsula communities. And three of your Board  
37 members, including yourself, attended these and conducted  
38 these meetings.

39  
40           The regulations that describe the process are found  
41 in Code of Federal Regulations 50, Section 100.15 and 36,  
42 Section 242.15. It states that the Board shall review  
43 determinations on a 10-year cycle, commencing with the  
44 publication of the year 2000 census status. The Board may  
45 also review determinations out-of-cycle in special  
46 circumstances.

47  
48           As you begin your deliberations, we suggest that you  
49 consider two things. One, specifically the request by the  
50 Kenaitze Tribe to make the entire Kenai Peninsula nonrural

00017

1 areas over into rural. And, secondly, to understand that the  
2 Board will want to know if there are special circumstances  
3 warranting this out-of-cycle consideration.  
4

5 For example, an unusual change in demographics or an  
6 economic situation in the local area, such as occurred not to  
7 many years ago on Adak with the closure of the Naval Station  
8 out there. Therefore, your recommendation to the Board  
9 should address whether there are special circumstances  
10 warranting out-of-cycle consideration and, if so, what those  
11 special circumstances are.  
12

13 Your Council's recommendation could conclude that the  
14 Board should review this request now. Or it could conclude  
15 that the review should wait until the normal cycle after  
16 receipt of the year 2000 census data. If the latter is the  
17 case, the Board would likely take no further action at the  
18 present time. Should your recommendation be for an out-of-  
19 cycle review, and if the Board agrees that there are special  
20 circumstances that would warrant review of the nonrural  
21 status now, the Board will reevaluate these determinations  
22 and, if necessary, publish a Proposed Rule outlining the new  
23 proposed determination, gather public comments, make a  
24 decision and then publish a Final Rule.  
25

26 Specific regulatory language on these sections is  
27 also found in your Board books there.  
28

29 CHAIRMAN LOHSE: Bill, don't run off, stay  
30 sitting there. Anybody have any questions specifically for  
31 Bill?  
32

33 (No audible responses)  
34

35 CHAIRMAN LOHSE: If not, I've got a few.  
36

37 MR. KNAUER: Okay.  
38

39 CHAIRMAN LOHSE: Okay. From what I  
40 understand, Bill, the question we have in front of us is  
41 whether or not there are special circumstances because, if I  
42 understood you correctly, beginning with the completion of  
43 the year 2000 census, all areas are going to be reconsidered.  
44 Am I correct on that?  
45

46 MR. KNAUER: That is correct.  
47

48 CHAIRMAN LOHSE: So Kenai will be reviewed,  
49 how long after the year 2000?  
50

00018

1 MR. KNAUER: We found that in the last census  
2 we received the census data within about a year following the  
3 census, so we received the data actually very, very early in  
4 1991. Or, actually, I think we actually had it in late 1990.

5  
6 CHAIRMAN LOHSE: So basically we're looking  
7 at probably two years?

8  
9 MR. KNAUER: Late 2000, early 2001.

10  
11 CHAIRMAN LOHSE: To receive the data?

12  
13 MR. KNAUER: To receive the data, correct.

14  
15 CHAIRMAN LOHSE: So for the process you're  
16 going to have to look for the next year at least? I mean,  
17 once the data is there then you got this process of review?

18  
19 MR. KNAUER: That is correct.

20  
21 CHAIRMAN LOHSE: So the earliest that the  
22 Kenai could be reviewed would probably be like 2002?

23  
24 MR. KNAUER: I would assume, and again, this  
25 is my own impression, that because if the interest Kenai  
26 would be one of the first areas to be examined when the data  
27 comes in.

28  
29 CHAIRMAN LOHSE: Okay. So it's probably  
30 2001, 2002, somewhere in that neighborhood. That's one of  
31 the questions I was going to ask you too.

32  
33 Okay. Now, will the information that we've already  
34 collected and the testimony that's already been collected,  
35 will that be used in the reconsideration, again, after the  
36 census material is gathered?

37  
38 MR. KNAUER: Yes, it will.

39  
40 CHAIRMAN LOHSE: So all of the work that has  
41 been done is not automatically lost, it has to start over  
42 again?

43  
44 MR. KNAUER: That's correct.

45  
46 CHAIRMAN LOHSE: Okay. And so would there be  
47 an opportunity then, at that point in time, for the Kenaitze  
48 Indian Tribe to request special consideration in the normal  
49 cycle? Considerations of the question? In other words, kind  
50 of what you said. Can it be requested that this is -- you

00019

1 know, that they would like this considered at that point in  
2 time? Or will the Board just do its own review without  
3 having special requests?

4  
5 MR. KNAUER: There will be a complete review  
6 of all areas, there will be opportunity for full public input  
7 at that time. I'm not sure what you mean about a special  
8 request because all of the areas will be examined for  
9 appropriateness, both as to the characteristics of the  
10 community and the appropriateness of aggregation and the  
11 community characteristics.

12  
13 CHAIRMAN LOHSE: Okay. At that point in time  
14 can this Council put input in that we would it considered?

15  
16 MR. KNAUER: All of the Regional Councils  
17 will be included in the review process, yes.

18  
19 CHAIRMAN LOHSE: Okay. And let me see if I  
20 have one more question written down. Nope.

21  
22 So our question is are there special circumstances to  
23 warrant it being done now instead of in the year 2001, 2002.

24  
25 MR. KNAUER: That is one of your primary  
26 questions to consider and deliberate, after hearing all of  
27 the testimony and information, yes.

28  
29 CHAIRMAN LOHSE: Okay. Any other questions  
30 for Bill?

31  
32 (No audible responses)

33  
34 CHAIRMAN LOHSE: Thank you, Bill.

35  
36 MR. KNAUER: I'll be here in case you -- any  
37 other questions arise during your meeting.

38  
39 CHAIRMAN LOHSE: Okay. At this point in time  
40 we will have a report on the public hearings from Fred John,  
41 Jr. and a summary of the written public comments from Helga  
42 Eakon.

43  
44 MR. F. JOHN. Good morning. My name is Fred  
45 John Jr., Vice-Chair of the Southcentral Regional Council.

46  
47 In response to a suggestion from the Federal  
48 Subsistence Board to get more public involvement, the  
49 Regional Council held three public hearings on the Kenai  
50 Peninsula. I chaired those hearings on behalf of the

00020

1 Regional Council, and Bill Knauer was the public hearing  
2 officer. Council members Clare Swan and Ben Romig also  
3 attended the hearings. For anyone interested, there is a  
4 review binder on the information table which contains the  
5 hearing transcripts as well as a copy of the sign-in records.  
6

7 Please note that at the public hearings, Bill Knauer  
8 and I specifically asked for public comment on whether or not  
9 special circumstances exist for the Board to reconsider the  
10 rural/nonrural determinations out-of-cycle.  
11

12 At the November 9, 1998 hearing at Seward a total of  
13 15 people attended with four testifying. The first speaker  
14 was opposed to the subsistence priority on U.S.  
15 Constitutional grounds. The second speaker had Equal  
16 Protections concerns while the third had concerns of  
17 equality. The fourth speaker was opposed, saying that all  
18 communities are on the road systems; if nonrural areas are  
19 designated rural, he was concerned about how that would  
20 affect Alaska fish and game management.  
21

22 At the November 11 hearing at Homer, 25 people signed  
23 in, of whom 13 testified. Six of the 13 opposed the request.  
24 The spokesman for the South Peninsula Sportsmen's Association  
25 said only Nanwalek, Port Graham and Seldovia are rural and  
26 that rural/nonrural lines cause division.  
27

28 The Deputy Commissioner of the Alaska Department of  
29 Fish and Game testified that they do not see any special  
30 circumstances for the Board to reconsider its determination  
31 out-of-cycle. He urged the Board to wait until the 2000  
32 census information is available. He also provided background  
33 information on the State's conclusions that the road-  
34 connected areas of the Kenai Peninsula are not rural for the  
35 purposes of ANILCA. He ended his testimony with a statement  
36 that the Kenaitze's tribal members are not geographically  
37 separated, living among several communities and that ANILCA  
38 does not contain a mechanism for applying the subsistence  
39 priority to subgroups.  
40

41 The Chair of the Homer Fish and Game Advisory  
42 Committee said that the Committee is adamantly opposed to the  
43 Kenai Peninsula going rural. Two individual opposed; the  
44 first saying that the road-connected communities are nonrural  
45 and the second one equal protection and due process grounds.  
46

47 The attorney for Gail Phillips and the Legislature  
48 asked if a rural designation were made for the Kenai  
49 Peninsula, would the Federal government allow steam nets in  
50 places like the Kenai River and the Russian River.

1 Seven of the 13 testifiers supported the Kenaitze  
2 request. The Chairman of the Kenaitze Indian Tribe read a  
3 tribal resolution on behalf of its 1,009 tribal members and  
4 the 2,767 Alaska Natives residing on the Upper and Central  
5 Kenai Peninsula. The resolution listed reasons why the Tribe  
6 thought that the Kenai Peninsula is rural. Four residents of  
7 Nanwalek spoke in favor of Nanwalek's status as rural, saying  
8 that subsistence is a very important way of life for them.

9  
10 A Homer resident supported the Kenaitze Chairman's  
11 testimony and a Kasilof resident testified that Kasilof was a  
12 rural community that is not connected to Soldotna or Kenai.

13  
14 At the Kenai public hearing, a total of 81 people  
15 signed in, with 27 testifying. Seventeen people spoke in  
16 opposition to the request, with the following themes:

17  
18 Worries about possibility of downriver closures if  
19 subsistence needs are not met. Another one is problem with  
20 definition of "customary and traditional." Another worry  
21 that if the Kenai Peninsula is declared rural, many of the  
22 industries, especially tourism and fishing, will lose money,  
23 with resulting loss of tax revenue to the Borough. Another  
24 one is the request smacks of discrimination. Under Statehood  
25 compact, the State is to manage subsistence, that's another  
26 one. And more worry about economic fallout, citing that  
27 according to the Kenai Peninsula Borough, sales from lodging  
28 and recreational services on the Peninsula in 1997 was 51  
29 million dollars. Why was there not a public hearing in  
30 Anchorage, that was another question. And then wait for the  
31 200 census. Rural means who get to be in power. The Kenai  
32 Peninsula is not rural. The tribe should submit fish  
33 proposal to the State Board of Fisheries instead.

34  
35 Of the eight testifiers who supported the Kenaitze  
36 request, the comments were: Individual still practices  
37 subsistence on the Kenai Peninsula. Personal use fishing and  
38 subsistence fishing are one and the same. ANILCA would  
39 protect Peninsula residents, both Native and non-Native, from  
40 influx of non-residents taking the fish and game. Another  
41 one is a quota of 35 red salmon is not enough, neither is the  
42 time compared to the season for the commercial fishermen and  
43 sport fishermen.

44  
45 The Kenaitze Tribe submitted another resolution  
46 outlining the following special circumstances:

47  
48 1. The Board's initial determinations were made  
49 without input from the Regional Advisory Council which had  
50 not yet been established; the Board's initial determination

00022

1 was based primarily on the State nonrural determination of  
2 the Kenai Peninsula, which the Ninth Circuit Court of Appeals  
3 rejected in the Kenaitze versus Alaska on the grounds that it  
4 violated a definition of "rural" in ANILCA. A Board  
5 determination in violation of applicable mandatory law is a  
6 special circumstance justifying reconsideration at this time.

7  
8 2. During the Board hearings on the Kenai C&T  
9 determination recommendations by the Regional Council, a  
10 majority of the local residents testified that the Board's  
11 1991 rural/nonrural determinations were divisive and  
12 erroneous.

13  
14 3. The demographics and other information supplied  
15 by the Institute of Social and Economic Research were not  
16 available at the time the Board made its initial  
17 determinations. And, finally, the Regional Council's  
18 recommendation to the Board is and for itself is a special  
19 circumstance justifying reconsideration by the Board.

20  
21 That concludes my report of the public hearings. We  
22 will now hear from Helga Eakon for a summary of written  
23 public comments received between October 9 and December 10,  
24 1998.

25  
26 Thank you.

27  
28 MS. EAKON: Thank you, Fred. Before I  
29 summarize the public comments that the Regional Council  
30 received, I'd like to point out that booklets containing the  
31 comments are available at the information table at that far  
32 wall. And there are also copies of a table summarizing the  
33 results, so feel free to avail yourself of this information  
34 if you wish.

35  
36 The Regional Council received 57 written public  
37 comments during the comment period, which ran from October 9  
38 through December 10, 1998. Of these 38 were in opposition to  
39 the Kenaitze request and 17 were in support. One commentor  
40 asked a question and another commentor was neutral.

41  
42 Of those who opposed the request for reconsideration  
43 of the rural/nonrural determination the following themes came  
44 out: The Alaska Department of Fish and Game did not see any  
45 special circumstances for review, stating that there was no  
46 new information. That changes on the Kenai Peninsula over  
47 the last eight years would not be reflected and that  
48 reassessment should be done with the year 2000 census data.  
49 The same concerns were echoed by the Cooper Landing Fish and  
50 Game Advisory Committee.

00023

1 Other commentors said that it is discriminatory, it  
2 is bad for the economy, it is bad for fish and game  
3 management. The sovereign State of Alaska has the clear  
4 Constitutional authority to manage the state's hunting and  
5 fishing. Subsistence life for Kenai residents should not be  
6 granted. The Peninsula has major stores and industries and  
7 it is accessible by paved highway and scheduled airlines.  
8 Concerns that the tourist industry would disappear. Concerns  
9 about the commercial fishing fisheries being decimated. It  
10 was that it violates the Constitution Equal Rights  
11 Protection. That communities with road access should not be  
12 considered rural. Opposition to Federal oversight and  
13 management of resources. The request is too divisive. And  
14 several commentors requested a flexibility analysis and a  
15 regulatory impact analysis for effects on the Alaskan  
16 economy, not only the Kenai Peninsula economy, but the  
17 Alaskan economy. Concern about forcing Federal managers to  
18 extent their authority on other lands and waters. Concern  
19 about lack of a clear comprehension of the negative  
20 implications this proposal would have on user groups within  
21 the community. And that only the Villages of Nanwalek and  
22 Port Graham live a true subsistence lifestyle.

23  
24 Those who wrote in support of the request echoed the  
25 following themes: The businesses on the Peninsula advertise  
26 themselves as "wilderness" and communities take advantage of  
27 Federal statutes which are available to communities that are  
28 "rural." (Indiscernible) vicinity has nine year old  
29 residents who would like a subsistence priority for hunting  
30 and priority over commercial interest in fishing.

31  
32 The Copper River Native Association supported the  
33 request citing the Ninth Circuit Court of Appeals Kenaitze  
34 case, that the Kenai area is rural place and that the  
35 decision should be considered a special circumstance.

36  
37 Several residents of Nanwalek wrote in support of  
38 their subsistence way of life.

39  
40 The Kasilof area should be designated as a  
41 subsistence area, this area has been continuously populated  
42 for 200 years because of the salmon runs.

43  
44 The Kenaitze Tribe spelled out four special  
45 circumstances. First, that the 1991 determinations were made  
46 without Regional Council input. Second, that the Institute  
47 of Social and Economic Research Report were not available.  
48 Third, at the 1995 Board public hearings a majority of  
49 residents testified the 1991 determination were divisive,  
50 erroneous and should be reconsidered. And, finally, that the

00024

1 Regional Council recommendation, in itself, constitutes a  
2 special circumstance justifying reconsideration.

3  
4 The Native American Rights Fund added a fifth special  
5 circumstance, namely that Title VIII is Indian legislation  
6 and as such must be interpreted broadly in favor of  
7 protecting the subsistence rights of Alaska Natives.

8  
9 A couple of commentors said that the Kenai Peninsula  
10 is rural for the same reasons set forth in the Kenaitze  
11 request. A commentor from Unalaska said that the Native  
12 people in these communities should have the ability to  
13 continue to practice the gathering of local resources near  
14 their home communities.

15  
16 And, finally, a commentor from Ester, Alaska, wanted  
17 to be kept informed of what's going on with the Kenaitze  
18 request.

19  
20 That concludes the summary of written public  
21 comments.

22  
23 CHAIRMAN LOHSE: Are there any questions for  
24 Helga?

25  
26 (No audible responses)

27  
28 CHAIRMAN LOHSE: Hearing none, thank you,  
29 Helga, for that summary. At this point in time, I think  
30 we'll take about five minutes, 10 minutes, get rid of the  
31 morning coffee break and then we'll start in with public  
32 testimony.

33  
34 (Off record - 9:14 a.m.)

35  
36 (On record - 9:30 a.m.)

37  
38 CHAIRMAN LOHSE: Okay. We'll call the  
39 meeting of the Southcentral Alaska Regional Advisory Council  
40 back to order. At this point in time we're addressing the  
41 Kenaitze tribal request for special circumstances to consider  
42 the 1991 rural/nonrural determination on the Kenai Peninsula.  
43 And we're just to the point in the process where we'll be  
44 taking public testimony. We have quite a stack of public  
45 testimony. After anybody speaks, would you just stay at the  
46 table for a minute or two until the members of the Council  
47 have a chance to ask you questions if they wish. If they  
48 don't, I'll excuse you.

49  
50 At this point in time, I'll just start taking them,

00025

1 if you'd like to be later in the testimony, you can request  
2 that when I call your name. Emil, would you like to come  
3 testify first?

4  
5 MR. DOLCHOK: My name is Emil Dolchok, I was  
6 born and raised in the Village of Kenai, hunting and fishing  
7 was a subsistence way of life as far back as I can remember.  
8 I still try to practice traditional lifestyle. However, the  
9 Board of Fisheries along with the State of Alaska ruled that  
10 Kenai was no longer a rural community and classed Kenai as  
11 urban. The sole reason for this ruling was to give the sport  
12 fishing guides and the non-resident sport fishermen  
13 unrestricted claim to the king salmon which belong to all  
14 user groups. The unending greed of the sport fishing guides,  
15 many of whom are not even residents of this state and not  
16 even residents of the Kenai area.

17  
18 I now live on the outskirts of Kenai on rural Beaver  
19 Loop and I am not tied to the City of Kenai's water or sewer  
20 system. I have my own deep well and septic system because my  
21 home is rural, approximately five miles from the Kenai Post  
22 Office, where wild game abounds. My wife and I have to look  
23 both ways in the morning when we go to get the paper to make  
24 sure there are no moose in sight. My home is about one mile  
25 up Beaver Creek, built up on the bank of the creek. We have  
26 lived there for the past 22 years. Every spring we watch two  
27 sandhill cranes nest on the swamp across the creek from our  
28 house, and every spring moose calves in that area. Caribou  
29 and both black and brown bears have passed through our  
30 property many, many times since we moved here. I have also  
31 seen coyotes, lynx, mink, weasels go by our house, even  
32 beaver and muskrat swim up Beaver Creek throughout the summer  
33 months.

34  
35 There are no urban surroundings where I live.  
36 Everything is of a rural nature. Mail out there is rural  
37 delivery. My morning newspaper is rural delivered. I  
38 certainly can't see classing us urban while living with all  
39 these rural surroundings.

40  
41 Last fall the police chief of the City of Soldotna  
42 invited policemen from different parts of Alaska to witness  
43 the operations of a rural community by its police department.  
44 If that municipality considered this area rural, then I have  
45 no reason not to believe we are living in a rural area.

46  
47 I have personally written many letters to the editor  
48 of our local newspaper condemning the Board of Fisheries and  
49 the Department of Fish and Game in their decisions of  
50 completely restricting us lifelong Natives from harvesting

00026

1 these king salmon which belong to all user groups, not just  
2 the sport fishermen. I also wrote a letter to Governor  
3 Knowles, but that was just a wasted stamp.

4  
5 In 1996 we petitioned the Board of Fisheries in  
6 restricting us local year-round residents from periodically  
7 fishing in the months of May and June, with hundreds of names  
8 on that petition we were completely ignored. The reason was  
9 that the local residents were catching too many king salmon  
10 that the sport fishing guides say belong to them and the non-  
11 resident sport fishermen.

12  
13 We cannot live by this drastic rule imposed upon us  
14 by the Board of Fisheries at the insistence of the sport  
15 fishing guides and the Department of Fish and Game. We local  
16 Natives that have lived here all our lives have every right to  
17 harvest these early run king salmon. In fact, we should have  
18 prior right to the taking of these king salmon at any time  
19 during the summer months that the king salmon are running.  
20 As long as I can remember we Natives have never abused our  
21 right in taking our share of these fish, we took only what we  
22 needed and were satisfied, we don't believe in waste. We use  
23 the whole fish, head, backbone and tail and all.

24  
25 Since the Board of Fisheries did not allow us any  
26 fishing time in May and June when the king salmon are  
27 running, I desperately urge this Subsistence Board to  
28 recognize us local year-round residents as a priority in  
29 harvesting these king salmon when they first enter the Cook  
30 Inlet.

31  
32 I thank you.

33  
34 CHAIRMAN LOHSE: Thank you. Any questions  
35 for Emil?

36  
37 (No audible responses)

38  
39 CHAIRMAN LOHSE: Emil, can I ask you a  
40 question real quick. Currently, under current regulations  
41 then you have no access to the early run king salmon?

42  
43 MR. DOLCHOK: No. We are allowed to fish the  
44 mouth of Kasilof River, I believe up until the 15th of June  
45 and by that time the early run kings are gone and the late  
46 run kings haven't started coming in yet. So see they got you  
47 coming and going there. They got it so we can't catch those  
48 kings.

49  
50 CHAIRMAN LOHSE: Okay. You say you were

00027

1 fishing -- you're allowed to fish the mouth of the Kasilof  
2 prior to the kings coming or while the kings are coming  
3 or.....  
4

5 MR. DOLCHOK: Well, three years -- prior to  
6 three years ago we were able to fish periodically in May and  
7 June, certain days of the week.  
8

9 CHAIRMAN LOHSE: Uh-huh.  
10

11 MR. DOLCHOK: We were scheduled out to fish  
12 with a gillnet on the east side of Cook Inlet. And in 1996  
13 they cut us off and just put us in Kasilof where thousands of  
14 people crowd into a mile of beach.  
15

16 CHAIRMAN LOHSE: Uh-huh. So there's no  
17 access to the king salmon for local residents?  
18

19 MR. DOLCHOK: No. For local there's no  
20 access.  
21

22 CHAIRMAN LOHSE: So are all of the early  
23 king salmon, are they all catch and release or are they -- I  
24 mean, do other people have access to those king salmon and  
25 are they able to keep them?  
26

27 MR. DOLCHOK: Well, we're just not allowed to  
28 fish king salmon there. And I used to go up the Kenai River  
29 to fish, you know. That's out of the question now.  
30

31 CHAIRMAN LOHSE: Uh-huh.  
32

33 MR. DOLCHOK: The last time I got there they  
34 run over my line, they didn't even stop, they just kept  
35 going. So that's sport fishing for you.  
36

37 CHAIRMAN LOHSE: Uh-huh.  
38

39 MR. DOLCHOK: I just gave that up.  
40

41 CHAIRMAN LOHSE: So basically, in your way of  
42 thinking the special circumstance would be the fact you  
43 currently have no access?  
44

45 MR. DOLCHOK: Well, we could have access if  
46 they'd give us the privilege of fishing king salmon down to  
47 the beaches.  
48

49 CHAIRMAN LOHSE: Any other questions for  
50 Emil?

00028

1 (No audible responses)

2  
3 CHAIRMAN LOHSE: Thank you.

4  
5 MR. DOLCHOK: Thank you.

6  
7 CHAIRMAN LOHSE: June Gagnon.

8  
9 (Pause)

10  
11 CHAIRMAN LOHSE: Is June here?

12  
13 MR. BALDWIN: She's on her way.

14  
15 CHAIRMAN LOHSE: Oh, okay. Sorry.

16  
17 MS. GAGNON: I like my new pony cart, it  
18 works very well.

19  
20 You know, I think one of the main things for me as a  
21 Native person, a Kenaitze tribal member and just as an  
22 Alaskan is being able to live the way we used to live as much  
23 as we can. We didn't have all the laws and everything that  
24 we have now. Our people harvested what needed to be  
25 harvested for their families and we didn't -- it's hard to --  
26 we didn't follow maps. Everybody had their own area, their  
27 own trapline and we -- and all the families had, you know,  
28 places where they went to fish and where they went to get  
29 moose meat. And I can remember my brothers in the middle of  
30 the winter going up to Steponka and Skilak Lake to bring back  
31 the fish from there in the wintertime, so we'd have fresh  
32 fish.

33  
34 And even as late as, say, eight or nine years ago, I  
35 would make a special trip up to the place where they count  
36 the salmon, up by Skilak Lake or Kenai Lake, one of them.  
37 And the -- that was -- it was spawned out salmon because  
38 there was two of our tribal people, that was the fish that  
39 they like, they said. That was one of the things that they  
40 did by seasons. And these old timers they wanted the fish  
41 that had spawned out. They said there was a different flavor  
42 to it. To me it tasted like a flat tasting fish, there  
43 wasn't much flavor to it, but it's what they wanted.

44  
45 We -- my people didn't believe in waste. Everything  
46 was used. I have -- one of my first memories is of Shuta  
47 Feona (ph) slapping my hands because I was grabbing up  
48 handfuls of clover and piling them on my lap. And she told  
49 me "what am I doing?" You know "What are you doing that  
50 for?" And I said "I don't know" you know, I was about four

00029

1 year old. And she said "you know, are you going to take it  
2 home and your dad's going to put a roof on the house with  
3 it?" And I said "no." And she says "are you going to take  
4 it home and your mom is going to make stew with it?" And I  
5 said "no." And she named -- you know, "you going to take it  
6 home to the dog team?" You know food for the dogs. "No."  
7 She said, "Now this isn't funny, this is real. I want you  
8 to remember this." And this is one of my first memories of  
9 teaching -- you know, being taught in the tribal way.

10  
11 She said "you don't waste, we don't waste things.  
12 Those greens, those clover and pieces of grass have a right  
13 to be there where they're at," she says, "just the same as  
14 that tree behind you is growing where it belongs," She says  
15 -- and we were looking down on the Kenai River, she says "the  
16 fish swimming in the river are where they belong," she says,  
17 "and everything is just -- the water in the river is where it  
18 belongs and we don't waste any of those things. We use them  
19 for our own use but we don't waste." And I still remember  
20 that and think of that quite often when I see someone  
21 catching a fish and damaging it and then throwing it back,  
22 you know. Or just throwing it up in the grass to lay there  
23 and rot.

24  
25 But I know that, you know, it wasn't our way of doing  
26 things. And we didn't have our -- we had our own lines -- I  
27 mean, like our own trapping site. It was the same as the way  
28 they used to plant potatoes and grow potatoes in Kenai, on  
29 the side hill. And everybody had their own potato garden  
30 there. And it just went down from, you know, like my mother  
31 taught me to plant there they same as her mother had taught  
32 her, you know, went on back. And we didn't -- and the men  
33 had their traplines when they went out to go trapping. All  
34 these things were areas that were special for us, but we  
35 didn't have to have it in writing or anything. We didn't --  
36 our lines were the ones that we had followed, you know,  
37 through generations.

38  
39 I feel that the Kenaitze and any of the other Native  
40 people who live on the Peninsula or who were living on the  
41 Peninsula at one time, should have the right to go and fish  
42 in that area. We have -- it's our live, it's our way of  
43 living. We did have -- you know, we don't believe in  
44 wasting, as I said. But I think it's very important that we  
45 have a chance to go out and gather the fish and gather the  
46 berries and all these things as they fall, you know, into  
47 time and season.

48  
49 I know one time when I was testifying something like  
50 this and I said, we never wasted anything, but my brother got

00030

1 13 moose, you know, one year, but none of it went to waste  
2 because there were people, families, in the tribe where they  
3 man, the hunter of the family wasn't there, he was sick or  
4 something. Sometimes he was in jail for breaking game laws,  
5 you know. So my brother would go out and get all the meat  
6 that was needed, you know, for the family. And I think  
7 that's the way that it should still be today. I mean, not to  
8 be wasted.

9  
10 And we should be classed as rural, you know. We are.  
11 We don't have lines anymore than a friend of mine who was --  
12 she was listed as being an Alaskan Native from Southeastern,  
13 but all of her family were Canadians and she said, well --  
14 you know, she said, we don't follow that. She says, our  
15 parents, our great grandparents and everybody they didn't  
16 know that there was a line there saying this is Alaska and  
17 this is Canada, you know. She said this is where we belong.  
18 And that's the way I feel about it.

19  
20 I don't know if I clarified anything or not, but  
21 thank you.

22  
23 CHAIRMAN LOHSE: Thank you, June. Does  
24 anybody have any questions?

25  
26 (No audible responses)

27  
28 CHAIRMAN LOHSE: June, can I ask you a  
29 question?

30  
31 MS. GAGNON: Uh-huh (affirmative).

32  
33 CHAIRMAN LOHSE: You've been on the Kenai all  
34 your life, right?

35  
36 MS. GAGNON: Yes.

37  
38 CHAIRMAN LOHSE: Then one of the things that  
39 comes up is this need, you know, that we'd like to do, and I  
40 know I have the same tendency where I live, we like to do  
41 things the way we used to do them. And the question that I  
42 wonder is, you know, there are more people on the Kenai today  
43 than there used to be. If the whole Kenai becomes rural that  
44 means that you have that many more people who have access to  
45 the resource. There are more Natives on the Kenai than there  
46 used to be by quite a bit and a lot more non-Natives than  
47 there used to be. Can the game resource that's on the Kenai  
48 Peninsula or the fish resource on the Kenai Peninsula, in  
49 your opinion, can it support the amount of people that live  
50 there?

00031

1 MS. GAGNON: The people that live there, yes,  
2 I believe we can. But not where we have all the Outsiders,  
3 people who come up from the Lower 48 to fish our waters,  
4 commercially, and they don't help us in any way, they just  
5 use the salmon, they use the fishing. And then sport  
6 fishermen from all over who come to fish in the Kenai River.  
7 I have a real bad feeling about them because, you know, I've  
8 seen too much waste with them. And we -- I believe, yes, we  
9 can support the people who belong there.

10  
11 CHAIRMAN LOHSE: The people who live -- the  
12 local residents of the Kenai Peninsula?

13  
14 MS. GAGNON: Uh-huh (affirmative). Not just  
15 everybody.

16  
17 CHAIRMAN LOHSE: Yeah. Thank you.

18  
19 MR. F. JOHN. Can I ask a question?

20  
21 CHAIRMAN LOHSE: Yes.

22  
23 MR. F. JOHN. I got a question.

24  
25 MS. GAGNON: Yeah.

26  
27 MR. F. JOHN. You talk about, you know, they  
28 throw fish back in. Up in our area we always -- we consider  
29 that in our language engee, mean it's not right.

30  
31 MS. GAGNON: Uh-huh.

32  
33 MR. F. JOHN. How does the Kenai Native,  
34 original Native people, think about people catching fish,  
35 looking at it and throwing it back in?

36  
37 MS. GAGNON: We don't get to throw many  
38 people in the water, but there's a lot of -- you know, we  
39 don't believe in that. You fight a salmon or a trout or  
40 something for an hour on you light test line and you've got  
41 that fish struggling for an hour and then because he's not --  
42 the hook, he hasn't swallowed the hook all the way or  
43 anything like that. They say, oh, he can swim, he'll be  
44 okay, so they throw him back in the water. Now that fish,  
45 after an hour of fighting, isn't able to go ahead continue  
46 with his life cycle.

47  
48 MR. F. JOHN. Uh-huh. So in Kenai does the  
49 sport fishermen have priority over subsistence fishermen? Or  
50 do you have any subsistence fishermen by law?

00032

1 MS. GAGNON: That's a hard one to answer  
2 because I.....

3  
4 MR. F. JOHN. I really want to know. I'll  
5 make it simple. Is a subsistence fishermen, are they in a  
6 user group like personal use and sport fishery and commercial  
7 fishery?

8  
9 MS. GAGNON: Yeah, we are in a -- people who  
10 are fishing for their family, yeah, they do have a -- they  
11 have the -- I think they should have the first right to do  
12 that. Let the people who are counting the fish -- you know,  
13 let the people who are going to use the fish take it. I  
14 think a salmon in the belly of some of our children is a lot  
15 prettier than a salmon that's mounted on the wall for some  
16 guy in Colorado or someplace like that.

17  
18 MR. F. JOHN. Uh-huh. Thank you.

19  
20 MR. KOMPCKOFF: Mr. Chairman, I got one.

21  
22 CHAIRMAN LOHSE: Don.

23  
24 MR. KOMPCKOFF: Like you're bringing back  
25 memories of me living in Chenega, how each person had their  
26 own little trapline area where everybody respected that.

27  
28 MS. GAGNON: Uh-huh.

29  
30 MR. KOMPCKOFF: If you used it you had to get  
31 permission from the owner who owned the trapline area and it  
32 brings back all kinds of -- when I think about subsistence  
33 it's -- it reminds me of all the times we used to go kayaking  
34 over from Picket Point and Fort Wells area all the way up the  
35 Coghill before there was any fisheries around, you know. Now  
36 they have gillnet season over there and have all kinds of  
37 traffic, like the big ships, cruises, coming in there and  
38 scaring all the seals away from the ice and stuff, you know.  
39 That reminds me of how we used to just go jump in a skiff or  
40 a kayak and then go along the shore and hunt and fish along  
41 the way and it didn't matter how long it took you to get  
42 there.

43  
44 MS. GAGNON: Something that I really wonder  
45 about, after listening to the news on TV, I have a question  
46 maybe somebody here can answer it. What was it supposed to  
47 have been 80 some beluga killed in the Inlet. Where -- you  
48 know, where did these beluga come from, where did they go? I  
49 don't -- it doesn't make sense to me that we have as many  
50 beluga that they say were killed, let alone living ones. And

00033

1 I really wondered what -- beluga were in our diets. When I  
2 say our and I mean our people a long time ago, yeah, it was a  
3 source of food for us. But I don't know -- I know of, I  
4 think, two beluga a year that are used and that's it. Where  
5 do the rest of them go?

6  
7 MS. SWAN: Mr. Chairman.

8  
9 CHAIRMAN LOHSE: Clare.

10  
11 MS. SWAN: I just for kind of to sort things  
12 out for a point of clarification now, down on the Kenai  
13 Peninsula there personal use fisheries, it's legal. There's  
14 sport fisheries. There is commercial fisheries. And the  
15 last thing in the King Salmon Plan, which seem like it came  
16 out of -- it's a separate thing to save the king salmon from  
17 everybody for I'm not sure who yet, but there's this new  
18 plan. So my point is that there is no actual no legal  
19 subsistence except in those areas that are rural, so that the  
20 Kenaitze people are effectively -- I mean you can fish in a  
21 different place, but you have no subsistence usage. That was  
22 a clarification, I think, or something that I wanted to get  
23 squared away in my mind.

24  
25 CHAIRMAN LOHSE: You're talking king salmon,  
26 is that right?

27  
28 MS. SWAN: No, I'm just talking about fish,  
29 but I -- the latest thing is something called a King Salmon  
30 Plan. There is -- you know, there's personal use, the  
31 commercial and then there's sport fishery which includes  
32 guides and tourism, but then the latest phrase that came up  
33 is a King Salmon Plan, but there is no subsistence plan. And  
34 all the numbers for the other things that I mentioned are  
35 very important and people consider them and wave them in the  
36 air, and they're real important, but subsistence numbers and  
37 they're not considered at all.

38  
39 Okay, Fred had asked a question about -- asking if  
40 there was a subsistence fishery and we're not clear whether  
41 he meant a legal one or something that, you know, if it's  
42 still there.....

43  
44 CHAIRMAN LOHSE: Maybe we can get a  
45 clarification on that later from.....

46  
47 MS. SWAN: Okay, thank you.

48  
49 CHAIRMAN LOHSE: June, we surely do thank you  
50 for your testimony.

00034

1 MS. GAGNON: Thank you.

2

3 CHAIRMAN LOHSE: Okay. At this point in time  
4 we have Liz Dalton.

5

6 MS. DALTON: Can I wait?

7

8 CHAIRMAN LOHSE: Can you wait?

9

10 MS. DALTON: Uh-huh (affirmative).

11

12 CHAIRMAN LOHSE: Okay. Go back -- go to the  
13 bottom of the pile.

14

15 MS. DALTON: Thank you.

16

17 CHAIRMAN LOHSE: Carol Daniel.

18

19 MS. DANIEL: If we could allow the Kenaitze  
20 people to testify first and then Martha King and I will  
21 follow up.

22

23 CHAIRMAN LOHSE: Okay. James Showalter.

24

25 MR. SHOWALTER: Good morning, Mr. Chairman,  
26 Council. I've got a resolution here that has been submitted  
27 to the Council, which is Resolution 98-38 and we just want to  
28 re-read it into the records. And I also have written  
29 testimony myself.

30

31 I'm James Showalter, Tribal Chairman, Kenaitze Indian  
32 Tribe, Kenai. This is a tribal resolution in strong support  
33 of the Kenai Peninsula Borough being designated as a rural  
34 area for the purposes of subsistence.

35

36 WHEREAS, the Kenaitze IRA is a Federally recognized  
37 tribal government reorganized under the statutes of Indian  
38 Reorganization Act of 1934 and as amended in Alaska in 1936  
39 and in accordance with preamble and the tribal constitution.  
40 It is the responsibility for the social welfare of its 1,009  
41 tribal members and 2,767 Alaska Native residents of the  
42 Central and Upper Southern Kenai Peninsula in Southcentral  
43 Alaska; and

44

45 WHEREAS, the Kenaitze Indian Tribe IRA has  
46 established long-term goals which relate to the collective  
47 and the individual social and economical and government  
48 concerns of its people; and

49

50 WHEREAS, the Kenaitze Indian Tribe IRA the natural

00035

1 stewards of its land and its resources since time immemorial  
2 have respected, depended on the natural resources along the  
3 Cook Inlet Basin and their tributaries as our inherent  
4 culture way of life; and  
5

6 WHEREAS, the Kenai Peninsula is a rural area by any  
7 reason defined of the terms which are denoted by the  
8 following factors:  
9

10 1. Among them they are seasonal employment, which is  
11 commercial construction, and the lack of job opportunities,  
12 thus creating a higher rate of unemployment in the off  
13 season.  
14

15 2. Many sparsely settled communities on the Kenai  
16 Peninsula are isolated from each other and many people in  
17 these communities have no close neighbors.  
18

19 3. Many of the citizens living on the Kenai  
20 Peninsula have depended upon a subsistence way of life for  
21 generations, surviving on the wild renewable resources for  
22 food for their family.  
23

24 4. The communities in the Kenai Peninsula Borough,  
25 aside from the City of Kenai and Soldotna, are not connected  
26 by city sewer and water systems and must rely on a well and  
27 septic system.  
28

29 5. Citizens of the Kenai Peninsula Borough may rely  
30 on the medical facility located in Anchorage and the Lower 48  
31 states for most specialized medicine care.  
32

33 6. There's no public transportation system within  
34 the Kenai Peninsula Borough, thus making it difficult for the  
35 elders and many low income families to commute to shopping  
36 areas, medical facilities and effect.  
37

38 7. Many Federal and State funding agencies, such as  
39 Alaska Village Initiative and the U.S. Department of  
40 Agriculture, consider the Kenai Peninsula as a rural area,  
41 thus providing funds for project such as agriculture,  
42 economical development, training assistance and other  
43 projects to improve the well being of rural Alaska  
44 communities.  
45

46 WHEREAS, it is the conviction of the Executive  
47 Council Tribal Council Kenaitze Indian Tribe IRA the  
48 presentation of fostering traditional subsistence lifestyle  
49 for its members and all Alaska Natives residing within the  
50 Kenai Peninsula Borough and the primary means of promoting

00036

1 and protecting the vital heritage of the Dena'ina Athabaskans  
2 whose ancestors settled along the shores of Cook Inlet Basin  
3 and their tributaries; and

4  
5 WHEREAS, special circumstances exist which justify  
6 the reconsideration of the Board's rural/nonrural  
7 determinations as follows:

8  
9 The Board's initial rural/nonrural determination with  
10 respect to the Kenai Peninsula were made without input from  
11 the Regional Advisory Council which had not yet been  
12 established.

13  
14 The Board's initial determination was based on  
15 primarily on the State nonrural determination on the Kenai  
16 Peninsula which the Ninth Circuit Court of Appeals flatly  
17 rejected in Kenaitze Tribe versus Alaska on the ground that  
18 it violated the definition of "rural" in ANILCA.

19  
20 The Board's determination is in violation of its  
21 applicable mandatory law and is a special circumstance  
22 justifying reconsideration at any time.

23  
24 During the 1995 public hearings on customary and  
25 traditional use determination on the Kenai Peninsula  
26 conducted by the Board as well as the Regional Advisory  
27 Council the majority of the local residents who testified  
28 agreed the Board's 1991 rural/nonrural determination were  
29 divisive, erroneous and should be reconsidered, and see  
30 script of the 1995 Kenai hearing. The testimony taken during  
31 these public hearings, in addition to providing new and  
32 relevant information also indicates that errors were made in  
33 the analysis and it affected the ways the communities were  
34 aggregated.

35  
36 The demographics on other information related in the  
37 Kenai Peninsula contained in the report in the Institute of  
38 Social and Economical Research was not available at the time  
39 the Board made its 1991 rural/nonrural determination. The  
40 ISER report provides compelling, if not conclusive evidence,  
41 that the Board's 1991 nonrural determination with respect the  
42 Kenai Peninsula violated the Board's on criteria for a  
43 rural/nonrural determination, as well as the Ninth Circuit  
44 Court of Appeals Kenaitze decision.

45  
46 The Council recommends to the Board, in and of  
47 itself, continues a special circumstances justifying  
48 reconsideration of the Board's nonrural determination. The  
49 Board is obligated to defer to a Council's recommendation,  
50 except in a limited circumstance described in Section 805(c).

00037

1           NOW THERE LET IT BE RESOLVED the Executive Committee  
2 Tribal Council of the Kenaitze Indian Tribe of the IRA that  
3 the Kenaitze Indian Tribe IRA fully supports, endorses Title  
4 VIII of ANILCA which grants rural preferences to the citizens  
5 of the Kenai Peninsula, thereby, making them eligible to  
6 participate in customary and traditional subsistence way of  
7 live.

8  
9           And I've got testimony here I have written out. It's  
10 on rural. We, the Kenaitze has been to court on the rural  
11 meaning.

12  
13           In 1989 we the Kenaitze had won the issue on rural in  
14 the Ninth Circuit court which is and order from the high  
15 court and yet the State is still saying no to rural.

16  
17           And now or since then the Federal Subsistence Board  
18 is ruling by the State's word. In this action it's in  
19 violation of ANILCA Title VIII. And of the Federal court  
20 decision which the Kenaitze has won and you're still making  
21 rules by the State's thinking. Don't you think it's about  
22 time that you look at the Ninth Circuit Court said back in  
23 '89, and just say that our area is rural?

24  
25           Now you want to put this off until after the 2000  
26 census, which, in turn, you wouldn't have information and  
27 numbers on 2000 census until years after. So why don't you  
28 just go by what the high court said and just do it? That's  
29 the word of the Ninth Circuit Court they said back in 1989.

30  
31           Special circumstances. The Regional Advisory Council  
32 has twice recommended that the Kenai Peninsula be rural. In  
33 1995 and 1998 after hearing on customary and traditional use  
34 by the Kenaitze tribal members and a report from the  
35 Institute of Social and Economic Research. So since the  
36 Regional Council has recommended twice in the past that the  
37 Peninsula be rural, so the Council should stand by their  
38 words and support the rural meaning for the Peninsula and  
39 make it so.

40  
41           And to get the numbers that the State would like by  
42 aggregating communities of the Kenai, it's not real and not  
43 right. On the Kenai it's a vast area. Just look at the city  
44 limits of Kenai, it's large, scattered, not like any large  
45 city. So the research that had been done aggregated all the  
46 rural cities together to get a large number for a nonrural  
47 determination. But look at the vast areas of wilderness and  
48 the wildlife on the Peninsula. And for being classed rural  
49 it's also a big plus for the Kenai.

50

00038

1           The rural cities of the Kenai do receive large  
2 amounts of Federal dollars because they are classed as rural.  
3 There' a Rural Fire Protection Program, Rural Development  
4 Program, Economic Development Programs, Resource Conservation  
5 and Development Programs, rural utility services and there's  
6 more which receives dollars as a rural classification.

7  
8           And in closing, that the Advisory Council should  
9 recommend to the Board that the Kenai is rural for the  
10 purpose of Title VIII of ANILCA because Title VIII is the law  
11 and the Board must follow the law.

12  
13           Thank you.

14  
15           CHAIRMAN LOHSE: Any questions for James?

16  
17           (No audible responses)

18  
19           CHAIRMAN LOHSE: James, I would like to thank  
20 you for addressing special circumstances. This Council has,  
21 like you said, twice in the past recommended to the Board  
22 that the Kenai be found rural. I would like people who are  
23 testifying to remember that it's not necessary to convince  
24 this Council that the Kenai is rural, the Council has already  
25 made that decision twice.

26  
27           What the Board is asking for is special circumstances  
28 why they should consider it out-of-cycle, so if you can --  
29 when you're testifying not so much the issue of whether the  
30 Kenai is rural or nonrural, but like James did, what the  
31 special circumstances are, that would help this Council very  
32 much in its deliberations.

33  
34           I thank you muchly.

35  
36           MR. SHOWALTER: Thank you.

37  
38           CHAIRMAN LOHSE: Rita Smagge.

39  
40           MS. SMAGGE: Good morning. My name is Rita  
41 Smagge, I'm the Kenaitze Indian Tribe's Executive Director  
42 and I'm also a tribal member. I have two written oral  
43 testimonies this morning. One of our tribal members and  
44 Council members could not be here he asked me to read it into  
45 the minutes.

46  
47           This is to the Southcentral Regional Advisory  
48 Subsistence Board and it's from Ronald Peterson.

49  
50           I understand that the Regional Advisory Board doesn't

00039

1 make policy. At the last two Regional Advisory Board  
2 meetings the Regional Advisory Board has supported the  
3 Kenaitze Indian Tribe IRA's efforts to have this issue  
4 resolved. I urge the Regional Advisory Board to continue  
5 with this support and take the following statement to the  
6 Federal Subsistence Board.

7  
8 Would any of us be here today if our ancestors were  
9 told that they couldn't hunt, fish or harvest any of the  
10 other available renewable resources because of where they  
11 lived? Ever since the beginning of time mankind has  
12 subsisted off the bountiful resources offered by this planet.  
13 It didn't matter what race or nationality you were, or where  
14 you lived. If you needed the available resources offered you  
15 went out and obtained them because that is what you and your  
16 family needed to survive.

17  
18 When is enough enough? The Dena'ina have been asking  
19 for 10 years to have their subsistence lifestyle returned to  
20 them. In 1989 the Kenaitze Indian Tribe won its case in  
21 court declaring that this is a rural area. How can the  
22 Federal Subsistence Board ignore this court ruling? The  
23 Kenaitze have for the past five years, through the  
24 Southcentral Regional Advisory Subsistence Board been asking  
25 the Federal Subsistence Board to abide by this ruling.

26  
27 The Federal Board stated that they needed a special  
28 circumstance to take action. I feel that the court ruling of  
29 1989 meets this special action. This special circumstance,  
30 excuse me. How many more meetings for public comment have to  
31 be held? How many times do the Kenaitze people have to talk  
32 about the cultural significance of a subsistence way of life?

33  
34 I urge the Federal board when they review the  
35 statements given at these public meetings by the special  
36 interest groups and individuals that declare subsistence will  
37 destroy the economy of the Kenai Peninsula, that their  
38 statements aren't backed up by collaborating evidence. The  
39 time for delays is over. I challenge the Federal Subsistence  
40 Board to make a determination without further delay.

41  
42 Respectfully submitted, Ronald Peterson.

43  
44 Thank you.

45  
46 Now, I'd like to read my statement. My name is Rita  
47 Smagge, I'm the Executive Director for the Kenaitze Tribe and  
48 a tribal member. I'd like to urge the Council to reaffirm  
49 its recommendation that the Federal Subsistence Board  
50 reconsider its 1991 nonrural determination and declare the

00040

1 entire Kenai Peninsula rural. Title VIII of ANILCA is a law  
2 and the Board must follow the law.

3  
4 In 1989 the Tribe won the rural issue in the Ninth  
5 Circuit Court. And since 1995 has been asking the Board to  
6 reconsider its rural/nonrural determinations. It's been a  
7 long hard battle and our people have become very weary and  
8 disillusioned with the entire process. Although the law is  
9 clearly on our side, the burden of proof continues to be  
10 placed on the Tribe.

11  
12 We have testified in hearing after hearing before the  
13 State and Federal Boards, at Councils and at public hearings.  
14 Many tribal members and friends attending various hearings  
15 had full intentions of testifying, but were deterred from  
16 doing so because of the hostile atmosphere. They felt the  
17 hearings, for the most part, were nothing more than  
18 popularity contests and that the opposing testimonies clearly  
19 did not address the issues.

20  
21 The rural/nonrural issue is hard to grasp for many of  
22 our elders. They don't understand why their subsistence  
23 rights were taken away because a board somewhere determined  
24 their traditional homeland nonrural. Did this decision  
25 arbitrarily eliminate the need for customary and traditional  
26 foods and activities? No, of course not. Many residents,  
27 Native and non-Native alike are heavily dependent on a  
28 subsistence way of life. We are all stewards of this great  
29 land and I believe if we work together to preserve our  
30 environment there's no reason that the commercial, sports,  
31 subsistence fisheries cannot thrive together.

32  
33 Admittedly, the population of the Kenai area has  
34 increased since the discovery of oil and gas, yet the very  
35 characteristics of Kenai and the surrounding towns remain  
36 rural. Employment is seasonal in nature, primarily tied to  
37 the fishing industry. Unfortunately the commercial fishery  
38 is now fighting for its very existence as a viable industry  
39 in the Cook Inlet. The Kenaitze Tribe has taken a stand to  
40 support the commercial fishermen in their suit against the  
41 State legislatures mainly for two reasons. One, to protect  
42 the livelihood of our tribal members and to protect tribal  
43 rights.

44  
45 2. The entire Kenai Peninsula is sparsely populated  
46 in many areas and not served by city sewer or water. For  
47 example, the Tribe's administrative headquarters is located  
48 approximately six, well, I better say five miles, because  
49 Emil said five miles. Five miles from downtown Kenai and the  
50 Kenai Airport, on a dead-end dirt road. The 50-acre Native

00041

1 allotment parcel has no access, at this time, to city sewer  
2 or water and it is our understanding that the City of Kenai  
3 doesn't plan to install these facilities in our area for  
4 several years.

5  
6 Also, wildlife, such as moose, caribou, eagles,  
7 rabbits, sandhill cranes and sometimes bear can be seen  
8 roaming the property or running through the parking lot.

9  
10 There is no public transit system in the Kenai  
11 Peninsula Borough

12  
13 4. Numerous Federal agencies consider the Kenai  
14 Peninsula to be rural.

15  
16 Although special circumstance has never been defined,  
17 I submit the following points for your consideration:

18  
19 1. The initial determinations were made without  
20 input from the Regional Advisory Council.

21  
22 2. Since then the Regional Advisory Council has  
23 twice recommended that the communities on the Kenai Peninsula  
24 be reclassified as rural.

25  
26 The Boards original determination was made without  
27 regard to the fact that Title VIII of ANILCA is Indian  
28 legislation and as such it must be interpreted broadly in  
29 favor of protecting the subsistence rights of the Kenaitze.

30  
31 In closing, I ask this matter not be put off until  
32 the year 2000. This would mean at least two to three years  
33 or more before the issue would be addressed.

34  
35 As Ron aptly put it, when is enough enough? Thank  
36 you.

37  
38 CHAIRMAN LOHSE: Does anybody have questions  
39 for Rita?

40  
41 MR. DEMENTI: Mr. Chair.

42  
43 CHAIRMAN LOHSE: Yeah.

44  
45 MR. DEMENTI: I'm Gilbert Dementi. Is your  
46 community using police or fire protection?

47  
48 MS. SMAGGE: It does have a.....

49  
50 MR. DEMENTI: In your village is it using

00042

1 police or fire protection from Kenai area?

2

3 MS. SMAGGE: Well, we don't -- we do use the  
4 city police and fire protection.

5

6 MR. DEMENTI: From what I understand there  
7 getting Federal funds, rural funds; is that correct?

8

9 MS. SMAGGE: Yes, I believe that is correct.

10

11 MR. DEMENTI: Thank you.

12

13 CHAIRMAN LOHSE: Rita, can I ask you a  
14 question?

15

16 MS. SMAGGE: Sure.

17

18 CHAIRMAN LOHSE: I was trying to basically  
19 listen into, you know, what you were saying and, from what I  
20 understand, you see the Kenai Peninsula as a community.

21

22 MS. SMAGGE: I do.

23

24 CHAIRMAN LOHSE: And you feel that there's  
25 sufficient fish and game resources for that community on the  
26 Kenai Peninsula, meaning the community of the Kenai  
27 Peninsula.

28

29 MS. SMAGGE: I do.

30

31 CHAIRMAN LOHSE: And so it's not even so much  
32 that you're seeing it as a Native/non-Native issue, but as a  
33 broader community, that the resources should be -- there  
34 should be local preference, basically, for the resources that  
35 are on the Peninsula, and that would solve some of the  
36 subsistence problems or issues that you have.

37

38 MS. SMAGGE: I think so, yes. I believe  
39 there's enough resource to take care all our needs of our  
40 community.

41

42 CHAIRMAN LOHSE: Is there, and I don't mean  
43 this as a leading question, but is there hardships being  
44 suffered because of the current rulings that are in need of  
45 immediate.....

46

47 MS. SMAGGE: I believe there is, yes, there's  
48 people that are going without their subsistence foods. There  
49 is a need there.

50

00043

1 CHAIRMAN LOHSE: Any other questions for  
2 Rita?

3  
4 (No audible responses)

5  
6 REPORTER: Mr. Chair, can I get a copy of the  
7 written testimonies, please?

8  
9 CHAIRMAN LOHSE: Yes, you can.

10  
11 MS. SMAGGE: Okay.

12  
13 CHAIRMAN LOHSE: Thank you, Rita.

14  
15 If you have written testimony it would be nice if you  
16 could drop a copy of -- or I request that you drop a copy off  
17 with the court recorder, so that he can direct copies of  
18 them.

19 Is everybody still capable of still sitting through a  
20 couple of more testimonies before we have a break?

21  
22 (No audible responses)

23  
24 CHAIRMAN LOHSE: Hearing -- time out? How  
25 about one more, then we'll take a short break. There's a  
26 couple of people that would like a time out, but more of  
27 everybody else seems content to sit for a minute or two yet.

28  
29 Martha King.

30  
31 MS. KING: I'd like to wait until the  
32 Kenaitze Indian Tribe finishes theirs.

33  
34 CHAIRMAN LOHSE: What I'm doing if a person  
35 requests to be later, I'm sticking it on the bottom of the  
36 pile, the next time you come up that's going to be the last  
37 time I'm going to ask you. So you're going to come back up  
38 in the order that you're coming off this pile because I don't  
39 want to give somebody, you know, priority over somebody else.  
40 But if you request one deferment, I'll let you do that.

41  
42 Allan Baldwin.

43  
44 MR. BALDWIN: You know, so many of these  
45 people are saying good stuff and I'm writing notes. Being  
46 last is good in a lot of ways. I have written testimony from  
47 two Kenaitze members, Mary Ann Tweedy and Rosalie Tepp, and  
48 also some comments of my own. I guess I'll read through the  
49 written testimony first.

50

00044

1 Mary Ann Tweedy writes. "I have lived on the Kenai  
2 Peninsula my entire life. I am a member of the Kenaitze  
3 Indian Tribe, IRA as is my family. I am also an employee of  
4 the Kenaitze Indian Tribe.

5  
6 As I child I grew up living a subsistence lifestyle.  
7 We had fish that was gathered beginning in the spring with  
8 hooligans and later salmon as they would come into the Cook  
9 Inlet. Fish was smoked, canned, dried for use during the  
10 winter months. Moose was harvested, canned for later use,  
11 berries were gather in the late fall and made into jellies  
12 and jams. Gardens were planted and vegetable were preserved  
13 for later use.

14  
15 Today I still enjoy gathering fish and berries and  
16 preserving them for later use. This is done as a family  
17 project as it was many years ago.

18  
19 The town of Kenai in those times had very little to  
20 offer in the way of employment for cash to the local  
21 residents. Canneries were a major source of employment as  
22 was commercial fishing, both were and still are seasonal.  
23 Most towns on the Kenai Peninsula fall into the above  
24 category.

25  
26 In 1999 the situation has changed very little and  
27 still is rural.

28  
29 To receive some specialized medical treatment a  
30 person may have to search out help in Anchorage or even out  
31 of state. Medivacs happen on a regular basis with persons  
32 being transported to Anchorage or even out of state at times,  
33 away from family and friends.

34  
35 We have no public transportation system on the Kenai  
36 Peninsula.

37  
38 With the exception of the local and Federal  
39 government jobs, the hospital and school system, jobs on the  
40 Kenai are still seasonal. Most construction jobs last only  
41 through the summer months, roads, oilfield contractors,  
42 building. Summer jobs that are created as a result of the  
43 tourism industry are minimum wage and those persons are  
44 either laid off or their hours are cut back, so there's is no  
45 benefit whatsoever.

46  
47 Our electric company is still benefiting us as a  
48 result of Rural Electric Act, as are many of the grants that  
49 help subsidize our school systems.

50

00045

1 I believe that the Federal Subsistence Board should  
2 recommend that the Kenai Peninsula be declared rural and that  
3 as Native people we be allowed to continue our subsistence  
4 lifestyle and our culture and that we are not continually  
5 asked to reaffirm who we are because of special interest  
6 groups. Mary Ann Tweedy.

7  
8 Rose Tepp writes: "My name is Rosalie Tepp. I was  
9 born and raised in Hooper bay. I have lived a subsistence  
10 lifestyle all my life. I was adopted by the Kenaitze Indian  
11 Tribe and thanks to the Tribe I continue to enjoy the  
12 subsistence fishery traditions by participating in the  
13 Tribe's Educational Fishery.

14  
15 My husband and sons are also Kenaitze Indian tribal  
16 members. My husband and I have passed on our subsistence  
17 lifestyle to our sons, including preparation of traditional  
18 foods, which is appreciated by them. To take this lifestyle  
19 away would be devastating to me, my sons and my people!

20  
21 I am, in humble terms, asking you, the Advisory  
22 Council, to reaffirm its recommendation that the Federal  
23 Subsistence Board reconsider its 1991 nonrural determinations  
24 and declare the entire Kenai Peninsula to be rural.

25  
26 There are many factors that I could write down, but  
27 it would take 10 pages. However, I would like to offer  
28 several "special circumstances" that I feel justifies  
29 reconsideration of the Board's nonrural determination:

30  
31 It's the law!!

32  
33 The Board's initial rural/nonrural determinations  
34 were made without input from the Rural [sic] Advisory  
35 Council, which had not yet been established. The Regional  
36 Council has received more extensive information from a larger  
37 number of Kenai Peninsula residents than was provided in the  
38 course of public hearings during the rural determination  
39 decision-making process of 1990. Also the Board's initial  
40 determination was based primarily on the State's nonrural  
41 determinations of the Kenai Peninsula, which the United  
42 States Court of Appeals, Ninth Circuit Court of Appeals,  
43 expressly rejected in its decision in the Kenaitze Indian  
44 Tribe versus Alaska.

45  
46 Thank you for your time and consideration on this  
47 matter. Rosalie Tepp"

48  
49 During the last several of these public hearings that  
50 I attended -- you know, to coin a phrase "it's time to stop

00046

1 frying the bacon." The bacon has been in the pan for a long  
2 time and we don't want it thrown out with the grease.

3  
4 In the Kenai Peninsula Borough perspective for 1999  
5 they list populations for the Kenai Peninsula separate and  
6 distinct cities. They list them as separate cities and each  
7 has a distinct population, a distinct work force. Kenai has  
8 less than 7,000 people, Soldotna less than six and Homer less  
9 than four. And, again, the Borough lists these cities as  
10 separate and distinct communities.

11  
12 And each of these cities receives monies specifically  
13 based on a rural community. I was just looking at the list  
14 over at the table there at some of the people that were at  
15 the Kenai meeting and a couple that were also at the Homer  
16 meeting. And the only thing that I could see from that list  
17 is that there are many people speaking with forked tongues.  
18 They come before you and they say the Kenai Peninsula is  
19 nonrural, yet when they go to the Rural Transportation  
20 Planning Committees and they're asking the Federal government  
21 for money, they say the Kenai Peninsula is a rural community  
22 and we need rural money. And the Public Transportation  
23 Taskforce has received \$10,000 based on its being a rural  
24 community. We're in line to get over \$470,000 for rural  
25 transportation because the Kenai Peninsula is a rural  
26 community. Kenai, Soldotna, Homer, included.

27  
28 Basically the Federal government and the State of  
29 Alaska, have always promised to deal with Alaska's Native  
30 peoples and the United States Native peoples in a timely and  
31 unbiased manner. I don't believe that any resident of the  
32 Kenai Peninsula, whether they're a Native or non-Native in  
33 this particular issue have been treated in a timely manner.  
34 The issue of rural determination has continued to go on and  
35 on.

36  
37 And for a special case being treated in a timely  
38 manner, all the people of the Kenai Peninsula, that's why the  
39 Board should act before the year 2000. Time goes on and, you  
40 know, one day we may not need to argue rural or nonrural  
41 because there will be no more fish and the game will be gone.  
42 We put many issues off, time and time again, until the issue  
43 disappears. I would hate to see the Board do that with the  
44 Kenai Peninsula's being determined a rural community.

45  
46 So I would just like this Council, Advisory Council,  
47 to reaffirm that the Kenai Peninsula be determined a rural  
48 community. Thank you.

49  
50 CHAIRMAN LOHSE: Are there any questions for

00047

1 Allan.

2

3 (No audible responses)

4

5 CHAIRMAN LOHSE: I have one, Allan.

6

7 MR. BALDWIN: Yes.

8

9 CHAIRMAN LOHSE: One of your last statements  
10 where we're talking about timely manner, you said that if we  
11 put it off long enough maybe there won't be any fish and game  
12 to deal with. How -- can I ask, I'm putting you on the spot.

13

14 MR. BALDWIN: Sure.

15

16 CHAIRMAN LOHSE: Do you feel that a rural  
17 determination for the Kenai Peninsula will protect and assure  
18 the continuation of the fish and game resources on the Kenai  
19 Peninsula or will it put greater pressure on them?

20

21 MR. BALDWIN: I think it will protect the  
22 fish and it will protect the game. More specifically the  
23 fish. I live in Kasilof, about a mile from one of the hot  
24 spots on the Kasilof River for fishing, and I go there every  
25 year and fish. And I see people on a daily basis, people  
26 whose license plates say Montana, Wisconsin, Connecticut,  
27 Florida. I see people from Germany and the Netherlands, all  
28 over the world pulling more fish out of the Kasilof River  
29 than what the law says they can.

30

31 Last summer I saw a man from Montana fishing by  
32 himself and he had four king salmon in the back of his  
33 pickup. I saw him arrive at the river and I saw him leave  
34 the river. I see people at the Russian River they've got  
35 half the family on the Russian with their poles fishing and  
36 the other half of the family putting those same fish, the  
37 same day in jars as their kids haul the fish back to the  
38 motorhome. And that's wrong.

39

40 The guides, the sports fishermen complain about not  
41 having enough fish for their clients, yet they overlook the  
42 vast numbers of illegally caught fish being taken out of our  
43 rivers. I know it's a source of income for a lot of people,  
44 but for subsistence lifestyle that's why we're here in  
45 Alaska. We need our fish, we need our game and I really  
46 believe it should be the local residents first. And I don't  
47 care if they're Native or non-Native, if they live in the  
48 area and they live in the community, they should be the first  
49 ones to fish the Kenai Peninsula rivers and to hunt the Kenai  
50 Peninsula lands. And then people who live outside the

00048

1 community.

2

3 Did I answer your question?

4

5 CHAIRMAN LOHSE: Yes, you did, Allan, and you  
6 actually brought up another thing that I would like to ask  
7 you a question on. Because having seen the same exact thing  
8 that you're talking about, both on the Copper River and down  
9 in the Cordova area, Prince William Sound, I'm sure Donald  
10 seen the same thing, too, with the waste and the violations.  
11 Do you think that part of our problem could be solved if we  
12 actually had some good enforcement that would stop the kind  
13 of issues that you're talking about going on? Because as  
14 local residents we all, either through hearsay or having come  
15 across it, like you do, know about incidents where people who  
16 have come from -- I'm thinking of one for myself that I've  
17 watched how many wet-lock boxes of fish go out of our  
18 community during the silver salmon fishing season. And I  
19 know that there's no way that I could catch that many fish to  
20 fill those boxes, legally. Do you think that one thing that  
21 would help all of us, as local residents, would be some good  
22 enforcement to enforce the laws that are currently on the  
23 books?

24

25 MR. BALDWIN: I don't think the State of  
26 Alaska can afford to enforce its laws. The sheer number of  
27 people that visit the Kenai Peninsula, there just isn't  
28 enough money to oversee this vast number of people. On the  
29 Kasilof River last summer they had one officer that went  
30 through the park and, you know, there's 5,000 people up and  
31 down that whole river. Ten more officers would help, but  
32 with 5,000 people many, and I'll venture to say most of  
33 which, are from outside of Alaska. I just -- yes, it would  
34 help, but I don't believe it would solve the problem.

35

36 CHAIRMAN LOHSE: See, that's the question  
37 that I'm wondering, is if that problem isn't solved and you  
38 basically add another category of user groups to the same  
39 resource, is the resource in more trouble or less trouble?

40

41 MR. BALDWIN: I would have to say that if it  
42 were a subsistence use, local residents first, you would cut  
43 out 90 percent of the people visiting the Kenai Peninsula.  
44 If you were just to make a cut. I think that would go a long  
45 way in solving the Kenai Peninsula's problem with fish and  
46 game. I don't think we need that direct of approach. Being  
47 considered a rural community with subsistence use and  
48 managing the resources for the local people, local residents  
49 of a rural community, that I believe the Kenai Peninsula is,  
50 that would solve many of the problems.

00049

1           It would reduce, greatly, the number of people  
2 visiting the Kenai Peninsula. And it's kind of interesting  
3 that I would even be wanting a fewer number of people  
4 visiting the Kenai Peninsula. My family business depends,  
5 greatly, on tourists buying our product. But my children and  
6 my family's lifestyle is more important than the dollars I  
7 receive from the tourists coming on to the Kenai Peninsula.  
8 And I would like -- I would just like to see the Kenai  
9 Peninsula considered rural and subsistence hunting and  
10 fishing for the local residents a priority for the Board.

11  
12           CHAIRMAN LOHSE: Thank you. Any other  
13 questions for Allan?

14  
15           MS. SWAN: I have one.

16  
17           CHAIRMAN LOHSE: Clare.

18  
19           MS. SWAN: Allan, a couple of years ago --  
20 we're talking about law enforcement, about enforcing existing  
21 laws, a couple of years ago it was decided that people who  
22 fish, sport fishermen, and can their salmon and took it back  
23 and sold it so that they could pay for their vacation.  
24 Although they're not supposed to do that, legally, it was  
25 somewhere along the line that this was not going to be an  
26 issue, it wasn't going to be enforced because they were nice,  
27 average, retire people selling at the flea markets. It all  
28 -- just what do you think about that, about enforcement if --  
29 my question, I guess, that's another thing that's an added  
30 thing when the testimony for against subsistence or the rural  
31 is that it's going to take away the money that comes into the  
32 town.

33  
34           So, I mean, how do you think -- how does that balance  
35 out, what do you think we should do about that? Where does  
36 that stop before you say, well, we just can't enforce this  
37 because we can't afford it. Does it seem to you that there  
38 would be a balance or that given all these things that  
39 happened, you just give them up. We just say, well, you  
40 know, we don't have the money. How do you think that's going  
41 to balance that out, how is that going to help or not?

42  
43           MR. BALDWIN: Can I answer that in two parts?

44  
45           MS. SWAN: Sure.

46  
47           MR. BALDWIN: I think -- I'll try to. I  
48 really think that a lot of the money that is made, say, by  
49 the fishing guides, there's a very large number of these  
50 guides that are from out of state. I can think of 10 guide

00050

1 services in Kenai that they're on the Kenai Peninsula and  
2 they're charging money, as soon as the run is over they move  
3 to Hawaii and they run a guide service in Hawaii. And when  
4 that season is over, the off season comes there, they're in  
5 Washington. It happens a lot. And not only are they taking  
6 money away from the Kenai and away from Alaska, they're  
7 taking money away from Hawaii and they're taking money from  
8 Washington State.

9  
10 They're itinerant people and so I don't see a great  
11 deal of money staying in the Kenai. There is trickle down  
12 money that their clients spend in town, yes, and it is  
13 important for a lot of people on the Kenai Peninsula. I  
14 don't think that 20 to 30 percent less tourism is going to  
15 destroy the Kenai Peninsula or its economy. We are a very  
16 resourceful people. We want to live in Alaska, we want to  
17 live on the Kenai Peninsula and we do what we have to to live  
18 there.

19  
20 Now, as far as enforcing the law or not enforcing the  
21 law, as you mentioned, was decided. I can't sit here and ask  
22 the Board to enforce one law and not enforce another law. So  
23 that law that says you cannot take fish, can it up and ship  
24 it out and sell it, it should be enforced. Whether or not  
25 they're nice, average, little, you know, older retired  
26 peoples or not, they're breaking the law. And if they're  
27 caught, apprehended, they should have to answer to the letter  
28 of the law.

29  
30 If I go into a public building and light up a  
31 cigarette, somebody in that room is going to say "that's  
32 against the law" and I pay a \$50 fine. Now, I can't -- I  
33 don't expect anybody to say in this building over here you  
34 can go in and there's a no smoking sign, but you can smoke in  
35 there and we'll overlook it, when I go into another public  
36 building and I get charged -- fined \$50. It isn't right. I  
37 don't expect any favoritism above the law, but I do expect  
38 society to obey the laws. And if society doesn't like the  
39 law, society should try to change the law. So, I guess, you  
40 know, getting right down to it, I guess, they would have to  
41 go to jail or pay a fine.

42  
43 About four years ago I was in Sterling fishing for  
44 silvers, right next to the Moose River, and there was a man  
45 there fishing, a retired man, he was a doctor. He was a  
46 surgeon and he was fishing and he was bragging about having  
47 70 cases of fish in his motorhome. And another man walked  
48 up, also a retired man, and he had just arrived in Alaska,  
49 stepped up to start fishing and this guy said "that's my  
50 spot, you're fishing in my spot, get out of there." And this

00051

1 man, this doctor, supposedly he was a nice looking, average  
2 guy, walked up to this guy and said "that's my spot, get out  
3 of it or I'm pushing you in the river" and he shoved this guy  
4 in the river. And, you know, it's really strange they  
5 overlooked that and he took his 70-80 cases of fish and went  
6 back to his home in Pennsylvania. I guess that's what we  
7 have to expect when we go fishing.

8  
9 So, no, if they break they law, they should be  
10 punished. We have a law that says the Kenai Peninsula, as  
11 far as I read it, should be rural and should have subsistence  
12 priorities. And I believe that the Kenai Peninsula should be  
13 managed local residents first. And it's the law and I expect  
14 the Board to obey it.

15  
16 Did I answer your question?

17  
18 (Laughter)

19  
20 MS. SWAN: Thanks.

21  
22 MR. BALDWIN: Anything else?

23  
24 CHAIRMAN LOHSE: Thank you, Allan.

25  
26 MR. BALDWIN: Thank you.

27  
28 CHAIRMAN LOHSE: Okay. At this point in  
29 time, let's take five minutes. Everybody stretch, get  
30 yourself a cup of lukewarm coffee.

31  
32 (Off record - 10:55 a.m.)

33  
34 (On record - 11:12 a.m.)

35  
36 CHAIRMAN LOHSE: Okay. I'd like to call the  
37 Southcentral Alaska Subsistence Regional Advisory Council  
38 meeting back to order. At this point in time I'm going to  
39 ask everybody's forbearance. We have a person here that's  
40 not feeling well, that came to testify. It's not on the  
41 Kenai subject, but he's asked if he could testify out of  
42 order so that he could go home, and I'd like to grant that  
43 request, if it's okay with everybody.

44  
45 Norris [sic] Ewan.

46  
47 MR. M. EWAN: It's Morris Ewan

48  
49 CHAIRMAN LOHSE: Morris, sorry.

50

00052

1 MR. M. EWAN: I'd like to say hello to you  
2 people today and I'm feel real privileged to represent my  
3 people, Gulkana Village, as well as CRNA. My testimony is on  
4 Proposal 15.

5  
6 The proposed regulation is Unit 11 and 13, if the  
7 subsistence taking of an ungulate, except moose, in Unit 11  
8 and 13 or sheep, is restricted to one sex in any local area,  
9 no person may possess or transport the carcass of an animal  
10 taken in that area unless sufficient portion of the external  
11 sex organs remain attached to indicate conclusively the sex  
12 of the animal. However, this paragraph (c)(10)(ii) does not  
13 apply to the carcass of an ungulate that has been butchered  
14 and placed in storage or otherwise prepared for consumption  
15 upon arrival at the location where it is to be consumed.

16  
17 As I say, my name is Morris Ewan and I represent the  
18 Gulkana Village and CRNA. I am here to talk about Proposal  
19 15, to address the transporting of moose meat from the field  
20 in Unit 11 and Unit 13. The regulations states that sex  
21 organ has to be attached to the moose when taking the moose  
22 meat from the field. I do not like having to keep the sex  
23 organ attached to the meat. It is not customary and  
24 traditional way of caring for moose meat. The meat could be  
25 spoiled by having to keep the sex organs attached. The  
26 antlers from the moose could be carried from the field to  
27 show the sex of the moose. I do not like having a regulation  
28 which could make me a criminal because I may not keep the sex  
29 organs attached to the moose.

30  
31 The sex organ is not used for me or my family and I  
32 do not see why a qualified subsistence user has to carry this  
33 from the field. I cannot see a biological reason why I have  
34 to do this. The antlers could easy show proof of the sex of  
35 the moose. Unit 11 and 13 does not have a winter hunt so the  
36 antlerless moose will not be hunted during the winter months.  
37 Without the sex organ we can preserve the meat, whereas, with  
38 the sex organ we cannot preserve the meat.

39  
40 Thank you for listening to me.

41  
42 CHAIRMAN LOHSE: Any questions?

43  
44 (No audible responses)

45  
46 CHAIRMAN LOHSE: Thank you. Okay. At this  
47 point in time we'll go back to testimony on the Kenaitze  
48 tribal request for reconsideration.

49  
50 I have Arthur Moonin.

00053

1 MR. MOONIN: Hello. I didn't really have  
2 time to prepare for this speech, so I'm going to talk mainly  
3 from my own words. I was raised and I've lived on the Kenai  
4 Peninsula my whole life. I've noticed that there's been  
5 quite a few things taken away from my culture. And I was  
6 raised in Port Graham until I was age 12, then I moved up to  
7 Kenai. And in Port Graham you can fish whenever fish hit the  
8 bay. And the only rule of hunting that we had was you cannot  
9 hunt the animals that are pregnant or are bearing young with  
10 them. And the rules are getting pretty strict down there, we  
11 don't really have anyone coming down there, non-local, hunt  
12 or fish. And it's been our culture for a long time that  
13 there's always going to be a hunter or a fisherman that's in  
14 the family. And as of right now in Port Graham, there's only  
15 one kid who is hunting. He's maybe about 15 years old. He's  
16 going to school in Kenai right now. He doesn't have  
17 privilege of hunting in Kenai. I don't really think it's  
18 necessary to deny the cultures that are in Alaska or on the  
19 Kenai Peninsula, deny their rights of hunting or fishing for  
20 their own culture.

21  
22 After I moved up to Kenai I lost pretty much  
23 everything. I didn't get to go hunting the way I was  
24 supposed to. I don't really get to fish very much. I do go  
25 down there every once in a while, and that's just to see  
26 things. See the wilderness. And the fish is the big thing  
27 because we live on it in the summertime and we prepare for  
28 wintertime, like drying it or canning it, and dried fish is a  
29 delicacy, it's a snack worth a million dollars if you've been  
30 raised on it.

31  
32 That's about all I've got to say.

33  
34 CHAIRMAN LOHSE: Are there any questions for  
35 Arthur?

36  
37 (No audible responses)

38  
39 MR. MOONIN: Thank you.

40  
41 CHAIRMAN LOHSE: Arthur, can I ask you a  
42 question? Now, you say you've moved up to the Kenai since --  
43 from Port Graham?

44  
45 MR. MOONIN: Yes.

46  
47 CHAIRMAN LOHSE: And you've lived in Kenai  
48 for how long?

49  
50 MR. MOONIN: Nine years.

00054

1                   CHAIRMAN LOHSE: Nine years. Now, during  
2 that time, have you been able to take part in hunting or  
3 fishing under current State regulations? I don't mean  
4 strictly from subsistence standpoint, but have you been able  
5 to take part in hunting and fishing?  
6

7                   MR. MOONIN: No, not really. I have tried  
8 moose hunting, but I had no such luck whatsoever. I don't  
9 really know of anyone that does go hunting, so I haven't had  
10 anyone go out and take me around, until just recently. I  
11 finally found someone who's willing to take me out hunting.  
12

13                  CHAIRMAN LOHSE: Okay. Thank you.  
14

15                  MR. MOONIN: Thank you.  
16

17                  CHAIRMAN LOHSE: Liisia Shaw.  
18

19                  MS. SHAW: Good morning. My name is Liisia  
20 Johansen Shaw. I was born in Bethel, Alaska in 1949, and I  
21 have lived on the Kenai Peninsula for most of my life.  
22

23                  The only lifestyle that I knew as a child here was  
24 subsistence. My father trapped, hunted and fished for our  
25 food. He made our snowshoes, and trapped and sold furs for  
26 income during the winter months. During the summer months he  
27 was a commercial fisherman in Cook Inlet.  
28

29                  I still live a subsistence lifestyle, although with  
30 the changes in the fish and game regulations since Alaska  
31 Statehood, it has become almost impossible to hunt, fish and  
32 gather enough food to feed my family year-round.  
33 Nevertheless, I have been able to teach my children the joy  
34 of picking berries in the fall, and fishing for hooligans and  
35 salmon in the spring and summer.  
36

37                  My desire to live a subsistence lifestyle goes much  
38 deeper than the need for food. The need to fish and to eat  
39 fish is a part of my culture that I was born with, and has  
40 been passed down to me from many generations. Subsistence  
41 has always been an important and necessary part of the  
42 seasons for all Alaska Native people since time immemorial.  
43 Subsistence is our culture and without subsistence we Alaska  
44 Natives on the Kenai Peninsula have no culture. We will be  
45 assimilated completely into the non-Native world, an  
46 injustice to a Nation of People who have lived on the Kenai  
47 Peninsula for thousands of years.  
48

49                  I urge the Southcentral Alaska Subsistence Regional  
50 Advisory Council to recommend that the Kenai Peninsula be

00055

1 declared a rural area. As a tribal member and an employee of  
2 the Kenaitze Indian Tribe, in Kenai, I see the grief and  
3 outrage in our people who cannot harvest their own  
4 subsistence foods. It is a hard thing for me to see our  
5 people standing in line to receive a piece of road kill moose  
6 because they cannot get a moose here due to the number of  
7 hunters and regulations on the Kenai Peninsula.

8  
9 When the Federal Subsistence Board determined the  
10 Kenai Peninsula to be nonrural, that decision was based on  
11 the State's nonrural determination of the Kenai Peninsula,  
12 which the United State Court of Appeals, Ninth Circuit Court,  
13 expressly rejected in its decision in the Kenaitze Indian  
14 Tribe versus State of Alaska. Additionally, this nonrural  
15 determination violated the Federal Subsistence Board's own  
16 criteria for rural and nonrural determinations as well.

17  
18 The Federal Subsistence Board's initial determination  
19 was made without regard to Title VIII of ANILCA which was  
20 expressly passed to protect the Alaska Natives.

21  
22 Section 801: "The Congress finds and declares that  
23 the continuation of the opportunity for subsistence uses by  
24 rural residents of Alaska, including both Natives and  
25 non-Natives, on the public lands and by Alaska Natives on  
26 Native lands is essential to Native physical, economic,  
27 traditional and cultural existence and to non-Native  
28 physical, economic, traditional and social existence."

29  
30 Section 804 of ANILCA states: "Except as otherwise  
31 provided in the Act and other Federal laws, the taking on  
32 public lands of fish and wildlife for nonwasteful subsistence  
33 uses shall be accorded priority over the taking on such lands  
34 of fish and wildlife for other purposes..."

35  
36 Additionally, there are special circumstances that  
37 exist on the Kenai Peninsula that should be considered by the  
38 Federal Board. Many residents on the Kenai Peninsula are  
39 seasonally employed. Communities on the Kenai Peninsula are  
40 isolated from each other. There is not a public  
41 transportation system on the Peninsula. Many residents on  
42 the Kenai Peninsula are not connected to the city water and  
43 sewer system, and rely on a well and septic system.  
44 Residents of the Kenai Peninsula must rely on Anchorage for  
45 specialized medical care. The Kenai Peninsula is considered  
46 rural for many Federal programs and Federal funding agencies  
47 which include but are not limited to the United States  
48 Department of Agriculture, the United States Forest Service  
49 and the Natural Resources Conservation Service.

50

00056

1 In conclusion, I believe that the Federal Subsistence  
2 Board will recommend that the Kenai Peninsula be determined a  
3 rural area, thereby allowing the residents a subsistence  
4 lifestyle, a right that is guaranteed to all Alaska Natives  
5 by the United States Congress; an inherent right that gives  
6 us our life.

7  
8 Are there any questions?

9  
10 CHAIRMAN LOHSE: Anybody else have questions  
11 for Lisa [sic]? How do you say that word?

12  
13 MS. SHAW: Liisia.

14  
15 CHAIRMAN LOHSE: Liisia. Thank you. Liisia,  
16 I'm going to ask you a question. It's actually to help  
17 clarify a point that was brought up to me over the last  
18 break.

19  
20 MS. SHAW: Okay.

21  
22 CHAIRMAN LOHSE: Does everybody realize that  
23 what we're talking about here is when we're dealing with the  
24 Subsistence Board is we're not dealing with the whole Kenai  
25 Peninsula, we're only talking about that portion of land on  
26 the Kenai Peninsula that is under Federal jurisdiction, which  
27 basically limits it to a small portion of the Kenai River and  
28 the Russian River and the national -- I don't know, do they  
29 call it the Moose Refuge or whatever it is and Forest Service  
30 land. And that most of the rivers on the Kenai Peninsula do  
31 not come under that protection and most of the land on the  
32 Kenai Peninsula does not come under that protection?

33  
34 MS. SHAW: Well, I think most people realize  
35 that.

36  
37 CHAIRMAN LOHSE: Most people do recognize  
38 that?

39  
40 MS. SHAW: Uh-huh (affirmative).

41  
42 CHAIRMAN LOHSE: So in other words, what I'm  
43 saying is the fact that the Kenai would be determined to be  
44 rural is not going to solve the problems with king salmon on  
45 the Kasilof.....

46  
47 MS. SHAW: Right.

48  
49 CHAIRMAN LOHSE: .....or on the Kenai or  
50 Anchor River or any place like that?

00057

1 MS. SHAW: Yeah, I realize that.

2  
3 CHAIRMAN LOHSE: Okay.

4  
5 MS. SHAW: The one thing, if I could just add  
6 one comment to my statement, is that I've listened to  
7 everyone's statements over the last few meetings that we have  
8 held and the one thing I would like to emphasize is that the  
9 importance of subsistence for Alaska Natives is because it's  
10 not only just to gather food. Food is important, but it is  
11 because of our culture.

12  
13 Thank you.

14  
15 CHAIRMAN LOHSE: Thank you. And, again, I  
16 didn't mean that as a lecture to you about where it was, but  
17 I did want to bring that point out, that a lot of what is  
18 being said applies to the whole Kenai Peninsula, in general,  
19 and yet the Board will only be acting on a very small portion  
20 of the Kenai Peninsula, as far as fish resources and things  
21 like that.

22  
23 Okay. The next one we have is Archie Minkler.

24  
25 MR. MINKLER: I've been waiting for my turn.

26  
27 CHAIRMAN LOHSE: You got it.

28  
29 MR. MINKLER: My name is Archie Minkler, I  
30 work for the Kenaitze Indian Tribe. I'm the Youth Program  
31 Director there. I was born in 1969 up here in Anchorage, but  
32 I moved down Kenai shortly after that with my mother and I've  
33 been down there ever since. I've had the rare privilege of  
34 being with the Tribe and the tribal elders and the people of  
35 the Kenai. And I did bring some pictures, if I could have  
36 some of my staff members come up here, so I can just show  
37 you. I figure a picture shows a thousand words.

38  
39 If I could have Amanda and Arthur, could you two come  
40 up here, please? Okay, one of you take one, one of you take  
41 the other. You want the fish?

42  
43 But here are some pictures of what we do with our  
44 subsistence down there and this is why it's so important to  
45 us. As you can see we go through a whole process with our  
46 kids and we go through everything. And with us it's our way  
47 of life.

48  
49 I'm a little bit nervous here. But if you look here,  
50 we go through the whole deal with all of it, everything. You

00058

1 know, every now and then we'll get some kids out there with  
2 us and they'll give us some kind a funky looks, you know,  
3 it's the guts or the kidneys, but we're teaching them about  
4 anatomy and everything. And also the whole process of doing  
5 the fish. And without the subsistence we really don't have  
6 enough time of the year and game to get enough so we can  
7 actually show them.

8  
9 Me, myself, I'm an avid hunter and I go out during  
10 the regular season, but the way the rules and regs are I  
11 almost have to tranquilize a moose, run up there with my  
12 measuring tape to make sure it's the right size before I  
13 could shoot it. So the subsistence, you know, it's really  
14 nice because we can show our youth how to process a moose and  
15 go through the whole process with them.

16  
17 Also with the fish, you know, if I went down there  
18 sport fishing, I can only get one or two fish and I'm not  
19 going to be able to show them the whole process of doing a  
20 nice smoke and canning deal.

21  
22 MS. SONJU: Do you want to pass them around?

23  
24 MR. MINKLER: Yeah, why don't you go ahead  
25 and walk around and let them take a look at that. Like I  
26 said, I figure, it's a lot better if you get a good visual.

27  
28 You know, when we do harvest our fish and -- or  
29 moose, it's not like we're getting a whole, whole bunch.  
30 We're just getting enough to satisfy some of our people. You  
31 know, you got to figure we got, what, about 2,000 families,  
32 if we get 500 fish, I mean, 500 fish per 2,000 families,  
33 that's not a great deal.

34  
35 When we do go out, we go out for the people that  
36 can't get their own, the people that are crippled maybe, or  
37 the families are less fortunate. And I think of rural, I  
38 think of the different families that don't have heating and  
39 water and even -- Amanda can tell you about that, because she  
40 don't have heat or water. I have my own well, I live down  
41 Beaver Loop and here a few years back, if I can remember  
42 right, I worked with Ted Spraker of Fish and Game down there,  
43 and also Jeff Swan, he was the head of the agriculture  
44 program at that time, and we did catch a big brown bear right  
45 there on the tribal headquarters that was eating out of the  
46 smokehouse. You know, we didn't shoot it or nothing, we just  
47 lived trapped it and tranquilized it and took it to a  
48 different location because of our kids.

49  
50 I have fished with numerous elders and with the

00059

1 subsistence type, you know, I learn so much. Like with Emil  
2 one time I could tell you. We're fishing down there at Birch  
3 Island and he watch me walk up the bank with these two big  
4 king salmons, I walked all the way down, up and around, you  
5 know, I'm just huffing and puffing, going, ah, ah, with these  
6 big kings to bring it up to where the vehicle was. And  
7 because he was there he just kind of smiled at me and I  
8 watched him, he goes gets this stringer and he just strings  
9 all these kings together and just walks right down the bank  
10 with them. I would have never thought of that if my elder  
11 wasn't there to show me.

12  
13 Same with James, you know, when I go out hunting with  
14 all these elders they teach me, you know, how to go around  
15 the brisket and how to properly care for these different  
16 things that I'm going for. And I feel that it's really  
17 important that we realize that. You know, without this our  
18 kids have no one to show them. Like Arthur says, he's been  
19 on the Peninsula and nobody has ever took him. He don't know  
20 how to do it. And I wouldn't have known how to do it if it  
21 wasn't for our elders and my own grandfather. And I really  
22 think that this is really important that we realize that, you  
23 know, I don't want to lose our culture. You know, without it  
24 -- if we don't have this, how are we going to teach our kids?

25  
26 Thank you.

27  
28 CHAIRMAN LOHSE: Don't run off, Archie,  
29 someone might have questions for you, and if they don't, I  
30 do. Anybody got questions for Archie?

31  
32 MR. ROMIG: Was this an educational?

33  
34 MR. MINKLER: Yeah.

35  
36 CHAIRMAN LOHSE: So the fish that you're  
37 taking aren't under a true subsistence permit, they're under  
38 an educational permit?

39  
40 MR. MINKLER: Yeah.

41  
42 CHAIRMAN LOHSE: Is that the site off the --  
43 it's off Ninilchik or Kasilof or where is it?

44  
45 UNIDENTIFIED VOICE: Kenai.

46  
47 CHAIRMAN LOHSE: Off the Kenai?

48  
49 MR. MINKLER: Yeah, off the Kenai, down  
50 Waterfront.

00060

1 CHAIRMAN LOHSE: Now, is that the only site  
2 there is on the Peninsula?

3  
4 MR. MINKLER: Well, there's.....

5  
6 CHAIRMAN LOHSE: Because I know we saw some  
7 pictures once before of another education -- or of an  
8 educational fishery. Are there more than one of them on the  
9 Peninsula or is it pretty much just the one?

10  
11 MS. SWAN: I thought Ninilchik has one.

12  
13 CHAIRMAN LOHSE: I thought Ninilchik might  
14 have one.

15  
16 MR. MINKLER: I'm not sure if they do or not.

17  
18 CHAIRMAN LOHSE: But, basically, those aren't  
19 true subsistence permits, those are educational permits.....

20  
21 MR. MINKLER: Yeah.

22  
23 CHAIRMAN LOHSE: .....that end up -- that  
24 fish are made use of from a subsistence standpoint?

25  
26 MR. MINKLER: Yeah.

27  
28 CHAIRMAN LOHSE: And the other question I was  
29 going to ask you and it's -- you're talking about passing  
30 this information down. Do we have a generation gap on the  
31 Peninsula? I mean is there -- are people not learning it  
32 from their parents so that they have to learn it from elders  
33 and other people?

34  
35 MR. MINKLER: Yes.

36  
37 CHAIRMAN LOHSE: I mean, is that's what  
38 happened, there's been a time lapse where these things are  
39 lost?

40  
41 MR. MINKLER: Well, you know, a lot of the  
42 families work so much and some of them are single parents and  
43 some of them are just physically unable to do things.

44  
45 CHAIRMAN LOHSE: Uh-huh.

46  
47 MR. MINKLER: And with all the rules and  
48 regs, a lot of them just gave up.

49  
50 CHAIRMAN LOHSE: Okay.

00061

1 MR. MINKLER: They say, why go when we're  
2 only allowed one fish?

3  
4 CHAIRMAN LOHSE: Yeah. I guess I asked that  
5 because I ask that as father because the same things that all  
6 of you are talking about are extremely important to me, but I  
7 have -- I've worked at making sure that my sons and my  
8 daughters know how to do those kinds of things.

9  
10 MR. MINKLER: Uh-huh.

11  
12 CHAIRMAN LOHSE: And under the current  
13 existing regulations have had the opportunity to do them.  
14 And I was just wondering, you know, is it because of the vast  
15 amount of other pressure on the Kenai that just basically  
16 makes this a harder job there?

17  
18 MR. MINKLER: Oh, yeah. It gets to be a joke  
19 down there. If you go down there hunting, you know, there's  
20 a lot of places I won't even go because there's so many  
21 people out there, unless I'm wearing real bright orange, I'm  
22 afraid I'm going to get shot.

23  
24 CHAIRMAN LOHSE: Well, I can believe that and  
25 I've been fortunate enough to live places where there aren't  
26 a lot of people and so, consequently, the opportunity has  
27 been there to do that. But.....

28  
29 MR. MINKLER: Well, they're not there the  
30 whole time, but when they are there they just flood the whole  
31 area. And, you know, a lot of our own people won't go  
32 because of that.

33  
34 CHAIRMAN LOHSE: Okay. So a lot of the issue  
35 is just a lot of pressure from non-local people?

36  
37 MR. MINKLER: Yeah. And, you know, I don't  
38 want to lose anything. I mean, I feel this is important to  
39 our kids, you know.....

40  
41 CHAIRMAN LOHSE: Oh, yeah, very important.

42  
43 MR. MINKLER: .....and to use and I don't  
44 want to lose our culture on this.

45  
46 CHAIRMAN LOHSE: Yeah.

47  
48 MR. ROMIG: If they give you more, you know,  
49 for educational purposes, would that -- you know, would that  
50 satisfy your needs or.....

00062

1 MR. MINKLER: I'd say maybe a little bit,  
2 but, you know, there's so much need for the people down  
3 there. If you ever go down there on the Peninsula, look at  
4 some of these houses and some of the way these people live, a  
5 lot of these people aren't rich, you know, they depend on  
6 that fish and that moose. I mean, even me, I make a  
7 comfortable living, but after all my bills are said and done,  
8 I only have so much money. And if I can have a few fish in  
9 my freezer and a part of a moose, you know, that saves me  
10 some money, plus I'm getting nutritional food. And also my  
11 grandma just gets a great big grin because she's getting her  
12 traditional food.

13  
14 CHAIRMAN LOHSE: Ben.

15  
16 MR. ROMIG: So you'd feel -- like a special  
17 privilege during like the regular hunt, maybe a little bit  
18 before everybody takes the field?

19  
20 MR. MINKLER: Oh, I would love that.

21  
22 MR. ROMIG: Rather than having -- this looks  
23 like a good place during -- after the season.

24  
25 MR. MINKLER: Yeah, you know, if we could get  
26 out there, I mean, geez, the more the better, because like I  
27 said, you got 2,000 families, if we get one moose, you only  
28 get, what, maybe a little strip of jerky each, you know.

29  
30 MR. ROMIG: I mean, there's like -- I think  
31 they figure there's six or 7,000 moose hunters on the Kenai  
32 and they show about five or 600 moose, so there's about a --  
33 I don't know, what percentage is that? Ten percent. Would  
34 you, you know, be satisfied with a percentage of animals for  
35 the Tribe?

36  
37 MR. MINKLER: I'd probably feel comfortable  
38 with that, but I can't speak for the whole Tribe, that's just  
39 my thoughts.

40  
41 MR. ROMIG: Yeah.

42  
43 CHAIRMAN LOHSE: Go ahead.

44  
45 MR. F. JOHN. What I heard you saying, I  
46 think, is that you want to protect the culture of your tribe  
47 and this special moose hunting or just special time that the  
48 State make you guys hunt it doesn't protect you. And what  
49 you want is a subsistence right to hunt and fish with -- in  
50 the Kenai area which you don't have right now.

00063

1 MR. MINKLER: Yeah.

2  
3 MR. F. JOHN. Okay.

4  
5 MR. MINKLER: Well, we don't have enough, you  
6 know, we get just enough and we have a certain amount of  
7 people that we can show and then it's done. It's done for  
8 the year and I can't show my kids and properly go through it  
9 over and over to instill in their head like my grandfather  
10 did for me. And that's how I learned about anatomy. My  
11 grandfather wouldn't let me go out unless I could name every  
12 part of a seal, you know. And without that they're not  
13 learning. Same with how to take the tendons and everything.  
14 Making headcheese or even boiling up the tongue. They look  
15 at that and go "eeeewew", you know. It's like, wait a minute  
16 here, you know, we're definitely losing something.

17  
18 CHAIRMAN LOHSE: Any other questions for  
19 Archie.

20  
21 MR. F. JOHN. Was going to ask.....

22  
23 CHAIRMAN LOHSE: Huh?

24  
25 MR. F. JOHN. I was going to ask what he do  
26 with the horn.

27  
28 CHAIRMAN LOHSE: Carve it.

29  
30 MR. MINKLER: Okay, thank you.

31  
32 CHAIRMAN LOHSE: Thank you.

33  
34 MR. KOMPKOFF: Ralph.

35  
36 CHAIRMAN LOHSE: Oops, Donald.

37  
38 MR. KOMPKOFF: That reminds me of Chenega,  
39 too, when we have -- we got one moose for the village and  
40 that's all we get for Kings Bay area and one moose for  
41 Tatitlek for -- with 350 people and we have to split that one  
42 moose and Chenega has about 60 people and we split one moose  
43 there. Not very big chunk.

44  
45 MR. MINKLER: Yeah.

46  
47 CHAIRMAN LOHSE: Okay. Thank you.

48  
49 MR. MINKLER: Thank you.

50

00064

1                   CHAIRMAN LOHSE: Again, I'd like to point out  
2 that when we ask questions, and I'll specifically say this  
3 for myself, I'm not trying to put anybody on the spot, I'm  
4 trying to pull information out that -- to give a better  
5 understanding. And if you feel uncomfortable with any  
6 question I ask, feel free just to say "I can't answer that"  
7 or "I don't care to answer that."

8  
9                   Okay. Amanda.

10  
11                   MS. SONJU: Hi, my name is Amanda Sonju.  
12 I've lived in Kenai for three years. I am really for rural,  
13 mainly for my situation. I live 16 and a half miles out of  
14 Soldotna, I live in a 12x14 white-walled tent, no running  
15 water, no electricity and no telephone. When I came down it  
16 was difficult for me because I've live in Nondalton, which is  
17 across the Inlet, and I've lived a subsistence life. And  
18 coming down to Kenai and not being able to have a subsistence  
19 life was -- it was different for me, I wasn't able to go out  
20 and cut up fish and put up fish.

21  
22                   And when I started working with the tribe it brought  
23 me back to having a subsistence life. And I like my job  
24 because of the educational fishing and the hunt. We're able  
25 to teach our youth. Earlier you had asked Archie would that  
26 change if we were rural. I think it would for that fact that  
27 seeing our teenagers cut fish and put up fish and being able  
28 to themselves brought so much pride to their eyes, and that  
29 just made me fill with pride. And I'm pretty -- I'm not much  
30 older than my teenagers, but being able to see my teenagers  
31 be happy because they had a handful of dry fish was just --  
32 it's just amazing to see that. And I don't want our  
33 teenagers to lose that.

34  
35                   Kenai doesn't have any bus system or anything like  
36 that, so being able to go out and hunt when it's hunting  
37 season is really difficult for a lot of our families. So  
38 having the tribe have the education on that is something that  
39 at least they can come back to their traditional ways with.

40  
41                   Thank you.

42  
43                   CHAIRMAN LOHSE: Any questions for Amanda?

44  
45                   MR. ROMIG: Yeah, I guess what I was getting  
46 at was the if you're only given so much, you know,  
47 percentage-wise of the fishery or the big game animal, if you  
48 were given a larger portion, let's say, you know, would that  
49 satisfy the needs of the Natives or do you actually need to  
50 include -- in other words, if we make the whole Kenai rural,

00065

1 you're going to have, you know, a whole bunch of people out  
2 there hunting and if you had more, let's say, on an  
3 educational basis, you might have a better chance of  
4 obtaining your fish or game.

5  
6 MR. SONJU: I think the Kenai Peninsula would  
7 be able to handle it. I come from two situations down there.  
8 One's with the tribe and then one is living out on Funny  
9 River Road and having that community. I don't -- I think  
10 that if it went rural it wouldn't be just for Natives on non-  
11 Natives, I think they can work together, and I think it would  
12 survive. Because I live in, you know, both worlds, so.....

13  
14 CHAIRMAN LOHSE: Any other questions for  
15 Amanda?

16  
17 (No audible responses)

18  
19 CHAIRMAN LOHSE: Thank you.

20  
21 MS. SONJU: Thank you.

22  
23 CHAIRMAN LOHSE: Bonnie. Bonnie Julie.....

24  
25 MS. JULIUSSEN: Juliussen.

26  
27 CHAIRMAN LOHSE: Juliussen.

28  
29 MS. JULIUSSEN: Yes, my name is Bonnie  
30 Juliussen and I was born and raised in Kenai, as was my  
31 father and then generations before him. What comes to my  
32 mind is many years ago we used to be able to fish  
33 commercially from May to September. And that kept getting  
34 cut and cut and they -- in May they used to put up their fish  
35 for winter, can it, smoke it and what not. Now, we're down  
36 to maybe 30 days, if there's no closures. And that's why I  
37 believe we need subsistence, so that we can put up our winter  
38 fish. What's going to happen if there is no more fishing? I  
39 mean we can't afford to go and buy fish in the store at 6.99  
40 a pound, for our families. The Peninsula is a simple place  
41 to live and there just isn't a lot of big money there. We're  
42 not rich and we just -- we need to have subsistence and we  
43 need to be rural.

44  
45 Thank you.

46  
47 CHAIRMAN LOHSE: Thank you, Bonnie. Any  
48 questions for Bonnie?

49  
50 MR. ROMIG: Well, I guess it would be kind of

00066

1 on the same lines. There has to be some kind of a management  
2 tool. I think that even, like, a 30-day, you know, is a  
3 pretty adequate amount of time for fishing and putting up the  
4 fish. I'm not quite sure if I'm -- you know, if we have just  
5 a free for all or if we just have -- you know, we have to  
6 have some kind of a management tool to work with and I guess  
7 what I'd be -- I'd like to see -- I'd be more inclined to see  
8 the indigenous people in certain areas, you know, given the  
9 -- maybe more of an opportunity than the people from the  
10 Outside, because once you make it all -- you know, once you  
11 make everybody the same, it seems like there would be a lot  
12 more pressure on that resource and, you know, we're talking  
13 about Native and non-Native. And under the educational  
14 system, you know, it would be just, you know, the Native  
15 people that would be getting, more or less, kind of a special  
16 privilege so that they could pass on their traditions. And,  
17 you know, I'm just wondering whether that would be a better  
18 way to address the situation, than to turn the whole Kenai,  
19 you know, rural. So I guess my question is, do you really  
20 think that by making the whole Kenai rural you have a better  
21 chance of obtaining your fish and game, or would the present  
22 educational system, if the State was to allow more fish and  
23 game, would that be a better avenue of passing on these  
24 traditions to the kids?

25  
26 I guess what I'm getting at is, you know, if we make  
27 the whole Kenai rural we're dealing -- I don't know what the  
28 latest census is down there, but I know that it's grown at  
29 least double since 1970, if not more. And, you know, by  
30 turning -- by making that whole area rural, you know, is it  
31 going to be better for the people that have really been doing  
32 those types of things all their lives or would it be a better  
33 tool to go the State and try to get more fish on, maybe, an  
34 educational basis and base it more on a per family issue.  
35 Because it seem like with only a couple of thousand or how  
36 many Kenaitzes there are on the Kenai it wouldn't take that  
37 many fish to provide, you know, for everybody. You know,  
38 when you look at the overall picture it's a very small  
39 percentage of fish you're asking for.

40  
41 MS. JULIUSSEN: I believe in fairness. I  
42 think we should -- it should be fair, you know, I don't think  
43 that we are asking for all the fish, we just want a portion  
44 of it to live our own lifestyle.

45  
46 MR. ROMIG: Yeah.

47  
48 MS. JULIUSSEN: I know on several times they  
49 have closed the Inlet down, but left the fishing in the  
50 river. If you're going to close one thing down, I think they

00067

1 should close the whole thing down. I know the Kenaitze  
2 Indian Tribe abides by State law. When they say there's no  
3 fishing, we don't fish.

4  
5 MR. ROMIG: Yeah.

6  
7 MS. JULIUSSEN: And I would just like to see  
8 some fairness. And I've lived there all my life. We used to  
9 go to the river everywhere, you know, and fish and dig clams  
10 and, truthfully, I haven't been to the river to fish in over  
11 five years because you cannot even get down there. I never  
12 go to the beach anymore, we used to always play on the beach  
13 when I was little. You cannot get anywhere, the people who  
14 live right in town, you know, and that goes for Ninilchik and  
15 Homer, too. You know, there so many other people there that  
16 we can't -- they can't even go enjoy our own land.

17  
18 MR. ROMIG: I guess my biggest concern would  
19 be, would be putting more pressure on the resource or would  
20 be putting less pressure on the resource by making the whole  
21 Kenai rural?

22  
23 MS. JULIUSSEN: I don't know, I don't have  
24 the answer to that.

25  
26 CHAIRMAN LOHSE: Bonnie, can I ask you a  
27 question?

28  
29 MS. JULIUSSEN: Yes.

30  
31 CHAIRMAN LOHSE: And I'm not trying to put  
32 you on the spot with this. One of the things that I  
33 understand, and I think that most of the people that  
34 testified understand also, is that making a rural preference  
35 does not do away with regulations.

36  
37 MS. JULIUSSEN: Uh-huh.

38  
39 CHAIRMAN LOHSE: The health of the resource  
40 still remains important to the point that regulations would  
41 have to be made to address the health of the resource with  
42 the priority of rural preference. It doesn't automatically  
43 mean that we get to go back to the old days and do anything  
44 that we want to do, but it does mean that it just changes the  
45 priority. Is that a -- am I correct in my understanding, is  
46 that how most of you that are testifying view that  
47 understanding?

48  
49 MS. JULIUSSEN: Yeah, I understand that. We  
50 can never go back to what was. But I think, for myself, I

00068

1 just don't want to see it all disappear and not be none.

2

3 CHAIRMAN LOHSE: Thank you. Any other  
4 questions for Bonnie?

5

6 (No audible responses)

7

8 CHAIRMAN LOHSE: Thank you, Bonnie.

9

10 MS. JULIUSSEN: Thank you.

11

12 CHAIRMAN LOHSE: Warren Olson.

13

14 (No audible response)

15

16 CHAIRMAN LOHSE: Warren is not here, I'll put  
17 him on the bottom of the pile, give him another chance later.  
18 It's on the Kenai issue.

19

20 Alexandra M. Linder.

21

22 MS. SWAN: Alexandra Lindgren.

23

24 CHAIRMAN LOHSE: Lindgren. Oh, that's a G.

25

26 MS. SWAN: Do you have on your glasses?

27

28 CHAIRMAN LOHSE: No, I don't. If I have my  
29 glasses on, I can't see anybody out there. It's a choice.

30

31 MS. LINDGREN: Hello. My name is Alexandra  
32 Lindgren, I'm the Cultural Heritage Director for the Kenaitze  
33 Indian Tribe, a tribal member and, most importantly, a  
34 grandmother of nine, soon to be 10, tribal members.

35

36 Not to be trite, but I have to walk in two worlds and  
37 answer two codes of law. The law of the land and then the  
38 values and the traditions of my Dena'ina culture and  
39 heritage.

40

41 In addressing what special circumstances I believe  
42 you should bring this to the Federal Subsistence Board, I'll  
43 first address what I believe are the special circumstances  
44 under the law of the land, okay? And that is ANILCA Title  
45 VIII, you just have to do it. It's the law. And the Ninth  
46 District Court decision. Those have been talked and talked,  
47 those are things that are there.

48

49 Okay, then it's been recommended that we wait for  
50 information from the 2000 census. I contend that the

00069

1 information from the 2000 census is probably going to be  
2 erroneous. The last census in my neighborhood, my previous  
3 neighborhood was Ravenwood Subdivision, which is of the  
4 Chakansky (ph) Road on the Kenai River. And the census for  
5 that area said there were six Native people. There were 24  
6 people that had services from our tribe. Okay. So the  
7 census, the data will be skewed. The -- okay, so that's  
8 enough on that, okay.

9  
10 And then the other thing is, when you've been asking  
11 us about the Federal land. Are we aware that the Federal  
12 lands are going to be the only ones that if you have a rural  
13 designation that will be affected by this. Of course we are.  
14 I think that this Board and the Federal Board needs to be  
15 aware that those Federal lands are traditional and customary  
16 hunting and fishing lands. The biggest part of it. There's  
17 a reason why there's a national wildlife refuge. It was  
18 originally called the Moose Range, okay? And that's Federal.

19  
20 The Russian River, the co-management of the Russian  
21 River, the confluence of the Russian is U.S. Fish and  
22 Wildlife, U.S. Forest Service. I mean, those are traditional  
23 areas, okay?

24  
25 The other thing is I've been listening to the  
26 testimony and about how are we going to enforce limits and  
27 that type of stuff. Well, we have a State that's promoting  
28 tourism, it's the State's responsibility to promote and  
29 enforce its laws on the bag limit, so I don't think those are  
30 really relevant issues to be addressed right now. I think we  
31 need to -- with the special circumstance.

32  
33 Now, talking about the values and the tradition of my  
34 people and the customs and the laws that I answer to under  
35 those. Previous testimony from people who are opposed from  
36 seeing the Kenai Peninsula, the Federal lands in the Kenai  
37 Peninsula designated rural says it will be divisive. I  
38 submit that designating those lands nonrural is divisive. It  
39 separates my people from their special relationship, their  
40 unique relationship with those customary hunt and fishing  
41 lands.

42  
43 Okay. This relationship has been given the word  
44 "subsistence" and one word and one time cannot do that, so  
45 the special cir -- and then I said when I introduced myself  
46 that I was grandmother of nine. I have a grandson who's 13.  
47 This is a very special time in his life. I also had two sons  
48 who are now 30 and 29. When my sons were 14 and 13 they went  
49 with my uncles out to the Moose Range and they did a  
50 traditional hunt. They packed in the meat, they were taught

00070

1 how to share it. The had the blood and everything like that.  
2 My grandson has -- he just doesn't have the opportunity for  
3 that.

4  
5 Okay. And then there's been asking about the  
6 resources, is there enough fish, is there enough moose?  
7 We're a self-governing people and it has traditionally --  
8 we're taught that there -- that everything that we need is  
9 there and so I believe that we can co-manage and exist  
10 together and manage these resources.

11  
12 One of the things that I remember is the winter cow  
13 hunt, the barren cows that we would get when I was, you know,  
14 a young woman and then stories of the early spring kings.  
15 Emil always talks about how badly he wants to be able to  
16 harvest that resource. My uncle talks about it, you know, we  
17 can't do that.

18  
19 Okay, the current law prohibits these harvests for  
20 our people. And then -- got some notes, people want to say,  
21 okay. Well, I guess that's it.

22  
23 CHAIRMAN LOHSE: Anybody have any questions  
24 for Alexandra?

25  
26 (No audible responses)

27  
28 CHAIRMAN LOHSE: You know I will. And,  
29 again, I'm just questioning to try to bring things out. One  
30 of the things, the word that keeps coming up in relationship  
31 to the Kenai Peninsula is that making the Kenai Peninsula  
32 rural would be divisive. And, yet, if I understand the  
33 Kenaitze request is it turns the whole Kenai Peninsula rural,  
34 Native and non-Native, neighbors in a community would become  
35 -- all declared nonrural [sic]. How is that construed as  
36 divisive? That's -- I mean, can you answer me that?

37  
38 MS. LINDGREN: Well, you know, I guess it's --  
39 I have a hard time with that because I've been raised by a  
40 maternal uncle who told me that fish are not money and that  
41 moose are not money. So I think it becomes divisive when you  
42 attach dollar values to those things. When you base it on  
43 counts and percentages and stuff like that. Making a  
44 nonrural -- making us rural is an opportunity to develop  
45 special relationship. There was a time when everybody  
46 shared. If you -- the communities and memories project was  
47 like three or four years ago, and homesteaders, people who  
48 were not Alaska Native talked about when they came to the  
49 Kenai, how they were helped by the first people that were  
50 there. And taught where the fishing spots were, the hunting,

00071

1 what part of the moose was the good spot. So I don't think  
2 that it's divisive, but that's my interpretation.

3

4 CHAIRMAN LOHSE: So as a member of the Kenai  
5 Peninsula community you wouldn't view it as divisive?

6

7 MS. LINDGREN: No, sir.

8

9 CHAIRMAN LOHSE: It would only be divisive if  
10 you were outside of that community?

11

12 MS. LINDGREN: Yeah, uh-huh. If I was not --  
13 and then, you know, we live there because we love it. We  
14 don't live there because we know that the jobs are going to  
15 always be there. We don't live there because we have  
16 excellent health care. I just bought a new house, I had to  
17 have my own well and septic, and I'm single woman now living  
18 alone and I'm going to be responsible for a well and a  
19 septic. But right across the road from me three moose bedded  
20 down to sleep for the night, so I choose that. And I think  
21 that we choose that because we love it and I would like to  
22 believe that most of the majority of the residents -- and I  
23 think that there's your divisiveness, there's where your  
24 division comes in is resident versus non-resident.

25

26 And then the other thing is, is they always say it's  
27 going to cost dollars. Well, why does it matter? It's  
28 quality of life and I don't think -- I've never been taught  
29 that quality of my life depended on the dollar. And so I  
30 think that that where you have you divisiveness.

31

32 CHAIRMAN LOHSE: Thank you on that. Can I  
33 ask you one more question?

34

35 MS. LINDGREN: Uh-huh (affirmative).

36

37 CHAIRMAN LOHSE: One of the things that you  
38 mentioned is that you didn't -- and I don't know whether some  
39 of your questions felt that I was being -- advocating one  
40 side or the other, I wasn't, I was just trying to bring  
41 things out. You say that as a self-governing people you  
42 don't see any problem with the resource, and yet what you're  
43 willing to do is your willing to include all of your  
44 neighbors in the community, many of them who don't have the  
45 same tradition of self-government or the same tradition of  
46 value on the resource.

47

48 Now, in my way of thinking that means that since  
49 you've included all of that you can't just stick with  
50 self-governing, somewhere along the line you're going to have

00072

1 to set up a regulatory way of doing it so that the person who  
2 isn't self-governing is governed, just like the person who is  
3 self-governed. And do you -- am I correct in that way of  
4 thinking?

5  
6 MS. LINDGREN: Well, I -- maybe I've been  
7 blinded, but I think that you missed my point, that the  
8 people that live there, year-round, live there because they  
9 love it, okay? And I think that in loving it you don't harm  
10 -- I mean, you know, you -- and so I don't think that having  
11 a self-governing, having to establish new regulations that  
12 was done on a co-management basis would be bad. I think - -  
13 but -- and maybe it's Utopian to expect people to think about  
14 this without thinking in terms of dollars. And maybe, you  
15 know, I'm being really, you know, Pollyannish (ph) to say  
16 that we can do that. But I do believe that, and the people  
17 that I know and call neighbors would be willing to do that in  
18 order to participate in that type of stuff. But I can't  
19 speak for all the members of my tribe, nor can I speak for  
20 all the members -- for all the residents of the Kenai  
21 Peninsula. But I think it's much better though. I think the  
22 opportunity to do that would be much better than what we have  
23 now.

24  
25 CHAIRMAN LOHSE: Well, I agree with you and I  
26 think that in that kind of situation, a higher percentage  
27 would be capable of doing it.

28  
29 MS. LINDGREN: And example is a wonderful  
30 teacher.

31  
32 CHAIRMAN LOHSE: And social pressure of  
33 neighbors is a wonderful inhibitor, you cannot enforce game  
34 regulations, the only time they work is when they're accepted  
35 by the community and the community enforces the game  
36 regulations. I mean that's -- they weren't able to enforce  
37 them when they hung poachers, you know, you have to have  
38 community acceptance of it. And so from that standpoint,  
39 you're going to have a higher percentage, but you're still --  
40 because we don't live in a Utopian world you're still going  
41 to have the need for regulations and things like that, that's  
42 going to have to be worked out.

43  
44 MS. LINDGREN: And Mr. Chairman, we're  
45 talking about all the tourists that come to the Kenai are  
46 fishermen, that's not true. Tourism doesn't have to die  
47 because we limit the numbers of people that can fish or we  
48 limit the number of fish that are taken for sport. That's  
49 not going to hurt tourism on the Kenai Peninsula. I mean,  
50 there's more to the Kenai than standing and fishing, I mean,

00073

1 there's a lot more. And tourism -- I mean the -- and we are  
2 involved, you know, in a visitor industry at the interpretive  
3 site, so I've met those people, they not all there to fish,  
4 so, you know, I think we -- and besides which, a guide -- I  
5 think that the guides, if they have less fish that they're  
6 allowed to take are just, number one, going to enhance the  
7 experience that they give their people. And, number two, are  
8 going to raise the cost, so, you know, I don't think we're  
9 going to see that big a drop in dollars. I think they'll,  
10 you know, figure out a way.

11  
12 CHAIRMAN LOHSE: Any other.....

13  
14 MS. SWAN: Mr. Chairman.

15  
16 CHAIRMAN LOHSE: Clare.

17  
18 MS. SWAN: Sasha, since the tribes  
19 educational net came as a compromise with the State after  
20 Kenaitze prevailed in 1989 and this net is operated under --  
21 the tribal net is operated under State permit, and there are  
22 regulations. Quota was 5,000 last summer, I believe, that  
23 the tribe had to defer to the catch and release king salmon  
24 sport fishermen. And the silver take has been drastically  
25 cut, 5,000 mixed fish was the quota. Wouldn't say -- I mean,  
26 to the questions, would it seem to you that another  
27 management tool has been placed on the educational fishery?  
28 I bring this up because you mentioned at the beginning of  
29 your testimony that ANILCA is the law and that at this part  
30 of the law, wouldn't you say that there is already a  
31 regulation on top of that, I mean, it's well regulated and  
32 we're not -- the tribe is not operating without regulation.

33  
34 MS. LINDGREN: That's true, Clare. Yes, very  
35 true. I guess I just have a hard time understanding why it's  
36 such a hard decision to make. Why people can see what  
37 special circumstances there are. In waiting for -- the youth  
38 that we're going to lose, you know, you heard the testimony.  
39 The kids, the educational fishery, you know, grandchildren  
40 not having this and everything like that. And there's going  
41 to come a time in this world when the unique first  
42 relationship with the land is going to be most important.  
43 And I hate for use to lose any more of it. And -- but I  
44 believe our tribe is very well regulated with the fishery and  
45 I think the tribe goes -- bends over backwards to be fair in  
46 following that. I think that a lot of times -- I would much  
47 rather have seen them say when they close the river, no,  
48 we're still going to fish. That's my personal thing, but I  
49 uphold what the tribe does.

50

00074

1 CHAIRMAN LOHSE: Any other questions for  
2 Alexandra?

3  
4 (No audible responses)

5  
6 CHAIRMAN LOHSE: Thank you, muchly.

7  
8 MR. F. JOHN. Mr. Chair, it's lunchtime.

9  
10 CHAIRMAN LOHSE: What time is it?

11  
12 MS. SWAN: It's 10 after 12:00.

13  
14 CHAIRMAN LOHSE: Ten after 12:00. We're  
15 having so much fun.

16  
17 UNIDENTIFIED VOICE: Slave driver.

18  
19 CHAIRMAN LOHSE: I think we should recess for  
20 lunch until quarter after 1:00. It's 10 after 12:00 at this  
21 point in time, so the meeting is in recess.

22  
23 (Off record - 12:10 p.m.)

24  
25 (On record - 1:22 p.m.)

26  
27 CHAIRMAN LOHSE: I'll call this meeting of  
28 the Southcentral Alaska Subsistence Regional Advisory Council  
29 back to order.

30  
31 MR. F. JOHN. Were we out of order?

32  
33 CHAIRMAN LOHSE: Okay. Huh?

34  
35 MR. F. JOHN. Were we out of order?

36  
37 CHAIRMAN LOHSE: Well, we weren't out of  
38 order, I guess. Call it back in session. We're right in the  
39 middle of our testimony on the Kenaitze tribal request that  
40 the Regional Council recommend the Board reconsider its '91  
41 rural/nonrural determinations.

42  
43 We've heard a lot of testimony this morning, we still  
44 have about 10 more to go this afternoon. I don't want to put  
45 a kabash on anything that anybody wants to say. I will say  
46 that, you know, if you can, as much as possible, confine your  
47 comments to the need or the non-need for special  
48 circumstances, that would help speed things up. At the same  
49 time, if you have something else you wish to speak to, I'm  
50 not going to deny you the opportunity to speak to it. We do

00075

1 have quite a bit more testimony to go, so with that I'm just  
2 going to call the next person.

3  
4 Geneva. And I'll let you give your full name to the  
5 court recorder.

6  
7 MS. MARINKOVSKI: Okay. I'm Geneva  
8 Marinkovski. Okay. On behalf of my family and the Kenaitze  
9 Indian Tribe I urge you to reconsider its 1991 nonrural  
10 determinations and make it clear that the entire Kenai  
11 Peninsula be rural.

12  
13 I was born and raised the subsistence way of life. I  
14 was taught to hunt and fish and learned the subsistence way  
15 of life. I moved to the Kenai Peninsula area in 1992, or  
16 excuse me, 1982, and at that time I was able to fish off the  
17 Kenai River. Now, I have to listen to the announcements on  
18 the radio to see if it's okay to fish. I would like to  
19 continue to live the subsistence way of life and to be able  
20 to teach my kids how to live off land, so they can teach  
21 their children and my childrens' children.

22  
23 If the Kenai Peninsula is considered nonrural then we  
24 could not be able to get funds for the Indian Tribes or the  
25 public utilities. Because we are rural we are able to get  
26 funding for the Kenaitze Indian Tribe Library and the -- and  
27 for the local government.

28  
29 On behalf of my family, respectfully the Kenaitze  
30 Indian Tribe and residents of the Kenai Peninsula, I urge you  
31 to reconsider the decision that the Kenai Peninsula be rural.

32  
33 CHAIRMAN LOHSE: Thank you. Any body have  
34 any questions for Geneva?

35  
36 (No audible responses)

37  
38 CHAIRMAN LOHSE: Thank you, Geneva.

39  
40 MS. MARINKOVSKI: Thank you.

41  
42 CHAIRMAN LOHSE: Hendryx.

43  
44 MS. HENDRYX: Good afternoon, my name is  
45 Elsie Hendryx, I am a member of the Kenaitze Indian Tribe and  
46 I had a whole thing, but it's missing, so I'm going to wing  
47 it.

48  
49 One of the reasons I came down is we strongly feel  
50 that we should have the Kenai Peninsula declared rural and

00076

1 should you not do that I feel that it would change a lot of  
2 the regulations that -- for hunting and fishing. And as it  
3 is now, I know that the Federal regulation for the Skilak  
4 area management, right now, the only way we can go hunt on  
5 that land is through a lottery system and I believe you have  
6 to fill out all the applications and turn in \$5 with your  
7 application and they have a lottery, and that's part of the  
8 Federal management down in -- you know, for moose hunting.

9  
10 And we -- I've been filling out applications for  
11 myself and my three sons the last couple of years and we --  
12 last year we didn't -- we weren't chosen, the year before we  
13 had one, but that was the only way that we could -- you know,  
14 other than the regular moose hunting season. And it's been  
15 extremely hard having to compete with all the rest of the  
16 hunters that come into the Kenai area for hunting, and also  
17 for fishing down in the Kenai.

18  
19 And I believe that if we had changed the regulations  
20 we'd be able to meet all the needs of the people who come  
21 down. We, as Native people, are having an extremely hard  
22 time trying to get our moose for the year. And last year  
23 when we hunt we went out for two weeks and we set up a moose  
24 camp and my three sons and two of their friends went out and  
25 we were hunting on corporate lands, but right alongside,  
26 right on the lands adjacent to us was hunters, a guide  
27 service, and they were bringing their hunters in. And  
28 everyone of them got their moose and they were not only, you  
29 know, hunting on other lands but they were also hunting on  
30 the corporate lands that we were on. But we still have to  
31 compete with the guided services down in Kenai, not only the  
32 guided service, but also other people come down and hunt in  
33 our areas down in Kenai.

34  
35 And I believe that's all I have.

36  
37 CHAIRMAN LOHSE: Anybody have any questions  
38 for Elsie?

39  
40 (No audible responses)

41  
42 CHAIRMAN LOHSE: Basically, did I understand  
43 you right, that you were hunting on corporate lands, but you  
44 were still competing with guide services that.....

45  
46 MS. HENDRYX: Yes.

47  
48 CHAIRMAN LOHSE: Did they have permission to  
49 be hunting on those lands?

50

00077

1 MS. HENDRYX: I have no idea. Their -- the  
2 plane flew in and out on adjacent lakes in that area and they  
3 -- we knew that there were, like, four to six hunters. And  
4 there's lot of, you know, off road vehicles and horses and  
5 planes and what not going into that area. And they were  
6 taking their moose out and we hunted -- I think it was the  
7 last couple of days before my sons got their moose.

8  
9 CHAIRMAN LOHSE: Thank you. If there's no  
10 further questions?

11  
12 (No audible responses)

13  
14 CHAIRMAN LOHSE: Thank you, Elsie.  
15  
16 Susan.

17  
18 MS. MARRS-WELLS: Thank you, Mr. Chairman. I  
19 kind of wish I would have written down.....

20  
21 CHAIRMAN LOHSE: Would you give your name,  
22 please?

23  
24 MS. MARRS-WELLS: Yes. I said I wish I would  
25 have written down the name that my Aleut grandmother had for  
26 me so that you had to try to pronounce it.

27  
28 CHAIRMAN LOHSE: I can't even pronounce my  
29 name.

30  
31 MS. MARRS-WELLS: But truthfully I don't know  
32 how to actually spell Sukia (ph). My name is Susan Elise  
33 Marrs-Wells. I want to, first, thank you for the opportunity  
34 to address the Council here on the Kenaitze issue. And to  
35 thank my esteemed elders and Chairperson Swan who has spoken  
36 previously. Thank you for teaching me to value my culture  
37 and traditions and for your hard work in preserving them.

38  
39 As I said, I'm Susan Elise Marrs-Wells, a Kenaitze  
40 tribal member, originally from Seldovia. A subsistence user,  
41 a lifelong resident of the Kenai and a representative of KNA.  
42 My purpose here today is twofold. Firstly, to present  
43 testimony of my inherent subsistence needs and those of my  
44 people. Secondly, as Vice President of the Kenai Native  
45 Association I have brought a resolution from the  
46 corporation to read into your record.

47  
48 Resolution 99-03 reads:

49  
50 WHEREAS, the Kenai Natives Association, is a local

00078

1 Alaskan Profit Corporation located at Kenai, established in  
2 accordance with the Alaska Native Claims Settlement Act of  
3 1997; and

4  
5 WHEREAS, at a meeting of the Board of Directors of  
6 the Kenai Natives Association, held by telephone poll on  
7 March 22, 199, the Kenai Peninsula Borough designation as a  
8 "rural" area for purposes of subsistence was discussed; and

9  
10 WHEREAS, the Kenai Natives Association, Inc., has  
11 real and permanent concerns for the collective and  
12 individual, economic and social needs of our 570  
13 shareholders, a majority of which reside in the Kenai  
14 Peninsula Borough; and

15  
16 WHEREAS, the KNA Board of Directors considers the  
17 Kenai Peninsula to be "rural" by any reasonable definition of  
18 the term;

19  
20 NOW THEREFORE BE IT RESOLVED, that the Board of  
21 Directors of the Kenai Natives Association fully supports and  
22 endorses Title VIII of ANILCA, the Alaska National Interest  
23 Lands Conservation Act, which grants rural preference to the  
24 citizens of the Kenai Peninsula Borough, thereby making them  
25 eligible to practice their indigenous, customary and  
26 traditional subsistence way of life.

27  
28 I respectfully submit this on behalf of the  
29 corporation, our President, Richard Segura.

30  
31 And for the corporation, it is our responsibility,  
32 our fiduciary responsibility to support and promote the  
33 welfare of our shareholders. And we're asking that this  
34 Council, once again, urge the Federal Subsistence Board to  
35 reconsider the rural/nonrural determination for our community  
36 and reclassify the Kenai as rural for the purposes of Title  
37 VIII of ANILCA.

38  
39 As an individual tribal subsistence user, I want to  
40 restate a bit of the a different way of looking at our  
41 different user groups on the Kenai. As Clare had mentioned,  
42 we do have the personal use fishers, there are commercial  
43 fishers, sport fishers and, in my opinion, we have the river  
44 and inlet commercial sport fishing industry.

45  
46 I am a subsistence user who has no subsistence  
47 fishery, who must try to fulfill my subsistence need through  
48 personal use. That does not always supply the need of my  
49 household. Many of my people stood before this Council in  
50 1991 to implore the Council to uphold the Ninth Circuit

00079

1 Court's definition of the Kenai and not to violate the law as  
2 set forth in Title VIII of ANILCA. That law has been  
3 breached, so we're back again to implore the Federal  
4 Subsistence Board to correct their error.

5  
6 To me, and to many of my people, spring is the return  
7 of the king salmon when smoking and drying our catch is done  
8 before the flies come. Summer is the time of the red salmon,  
9 time to can and salt our fish. Fall brings the silver salmon  
10 for the salt barrel, the fatten bull moose and the ripened  
11 berry. The spring, the summer and the fall seasons help us  
12 to provide for survival of the darkness and the harsh winter  
13 before us. But we can survive because we've prepared.

14  
15 But the Federal Subsistence Board's recommendation of  
16 the urban determination has made it nearly impossible to  
17 prepare, resulting in many of our people being forced to  
18 suffer the indignity of welfare and road kill. The urban  
19 determination further restricts, well, actually it eliminates  
20 my right to fish the spring king, summer red and hunt the  
21 fall moose. Again this leaves many of my people scrounging  
22 the side of the road for bruised meat.

23  
24 The urban determination ignored the legal mandate of  
25 ANILCA law to protect my access to traditional subsistence  
26 needs. Thousands of acres of subsistence lands and wildlife  
27 habitats have been set aside as reserves to be protected on  
28 our Kenai Peninsula. Not from the exploitation of my Native  
29 people, the Natives caught a fish to play with before letting  
30 it go, or killed a moose just for the rack. We measure our  
31 catch not in pounds -- I talked to my sister in Seldovia  
32 yesterday, she got the first king of the season in  
33 participating in a derby. She told me not how big it was,  
34 but how many steaks she got from it. And that's how we  
35 measure our fish, how many steaks, how many packages for the  
36 freezer or how many jars can we can out of that one fish.

37  
38 Through the invasions of the cannery industry, the  
39 oil industry and now the tourism industry, our subsistence  
40 culture and traditions have survived, even through that.  
41 Survived because it is the heart of our existence. It is why  
42 we have fought, and won, the right in ANILCA to preserve that  
43 existence.

44  
45 The urban determination can be likened to cultural  
46 genocide, a felonious covert action with intent to destroy.  
47 In the early '60s our people began a long struggle for the  
48 return of our traditional subsistence lands and compensation  
49 for the injustices and losses our people have endured. The  
50 Kenaitze were on the forefront of that battle as well. The

00080

1 result was the Alaska Native Claim Settlement Act. ANCSA was  
2 negotiated in good faith to return our traditional and  
3 cultural lands and heritage.

4  
5 Unfortunately history has revealed that in the  
6 structure of the ANCSA Act much of these lands have been  
7 transferred back to the Federal government. Case in point,  
8 the wintering ground Steponka on the Kenai River were  
9 transferred to KNA only later to be restricted by 22(G) that  
10 prohibited our use of that property. This forced the  
11 corporation into negotiations with the Federal government and  
12 the sad ending to this saga is that after 25 years our most  
13 sacred land when back to the Federal government's ownership  
14 and with it went our access to our subsistence grounds. We  
15 got swindled by the Federal government.

16  
17 ANCSA transferred lands through law, but still our  
18 people had to return to Congress for the ANILCA law to  
19 further protect our rights for subsistence. The Federal  
20 Subsistence Board is now determining to break the ANILCA law  
21 by determining that my lifestyle must be urban.

22  
23 I was going to say that I didn't expect you to hear  
24 what I had to say, but in listening to the other testimonies  
25 given this morning and your responses, Mr. Chair, and your  
26 gracious way of bringing out some of the important facts it  
27 really made me think that you are a listening body. And it's  
28 my only prayer and hope that the Federal Subsistence Board  
29 will listen to what you take to them from us.

30  
31 So it is here that I hope that the Council and the  
32 Federal Subsistence Board will hear and take corrective  
33 actions now, not wait for the 2000 census. My people have  
34 been taken advantage of enough. Like someone said earlier,  
35 and I hear it often, enough is enough. We have special  
36 circumstances here that now should guide your recommendation,  
37 again. And, again, I ask that this Council recommend, again,  
38 to the Federal Subsistence Board that they take this matter  
39 out-of-cycle and determine that the communities on the Kenai  
40 Peninsula are, in fact, rural for the purposes of Title VIII  
41 of ANILCA.

42  
43 There's many things that were said earlier, and I'd  
44 like to respond to some of them. One of them is that -- now,  
45 I can't pronounce your last name, Mr. Chairperson and  
46 Mr. Romig stated that there are more Natives now on the  
47 Peninsula than there were in the past. And that -- I think  
48 you referred to the 1970 census. I don't believe this to be  
49 accurate and I would like to know where you got that  
50 information.

00081

1 MR. ROMIG: No, I think what I said was -- I  
2 said that the population on the Kenai is more than doubled  
3 since 1970.

4  
5 MS. MARRS-WELLS: Okay. So you aren't  
6 referring that the population of the Kenai -- the Natives on  
7 the Kenai has doubled?

8  
9 MR. ROMIG: No.

10  
11 MS. MARRS-WELLS: Okay. I misunderstood.

12  
13 MR. ROMIG: I was referring to that in  
14 respect to the amount of people that would be taking, you  
15 know, to the field.

16  
17 MS. MARRS-WELLS: I agree, there has been a  
18 tremendous growth. I think the population -- I think  
19 Ms. Lindgren had referred to the census, they're not really  
20 accurate. Some people don't write down that they're Native,  
21 for whatever reason. There was a time in our history, that  
22 you know of, that it wasn't good to be Native. My mother  
23 lost her language as a child because she wasn't allowed to  
24 speak it in school and would be punished for it. So there  
25 was a time when it was not good to be Native and it wasn't  
26 something you admitted whenever possible.

27  
28 Now, I think we're coming to a point because of the  
29 things that the tribes have done, because of the subsistence  
30 that we've been allowed to participate in, in the past, we've  
31 had to take other means, like the educational fishery that  
32 was brought before us before. But we are building back a  
33 sense of pride in our people. And that is very important.  
34 Our rights to the subsistence, fish, it's not just the king  
35 salmon, it's not just the red salmon, it's the humpy and the  
36 silver, the grouse and the berry and it's the moose, caribou,  
37 bear. It's our connection to those resources that we have  
38 that give us the connection to who we are as a people that is  
39 very valuable that I don't want to see us lose.

40  
41 Archie talked about teaching the young ones and  
42 several of us have taught our own children. I was privileged  
43 enough to teach another tribal member how to split fish,  
44 strip it, brine it, smoke it, dry it, because I was taught  
45 and that gives me a sense of pride in who I am. And for our  
46 young people today, we know the problems that all teenagers  
47 have across the board, Natives in particular have the same  
48 issues. Having our connection to the land, connection to who  
49 we are and our subsistence will build a sense of pride and  
50 that's something that we desperately need to give our

00082

1 children. We have great children out there, we need to --  
2 but we still need to nurture them and grow them up in the way  
3 they should grow. And this is one of the things that we need  
4 for our people and our children.

5  
6 MR. ROMIG: I think I was speaking more of  
7 another type of an avenue of accomplishing your goal, rather  
8 than making the whole Kenai rural.

9  
10 MS. MARRS-WELLS: Yes. And one of the things  
11 that I disagree with you on that. In reference to our  
12 educational fishery, I don't want more allocation on  
13 educational fishery, I want subsistence rights that are in  
14 the law. Much of the -- the Tribe has done an absolutely  
15 incredible, excellent job in managing that tribal fishery.  
16 That has been a source for me to go and teach kids about how  
17 to catch fish, how to take care of it, how to share with  
18 their elders, how to provide for one another. It's a time  
19 where we can just have fun together, work together. It's a  
20 teaching mechanism for us.

21  
22 Now, some of the people that fish that tribal net are  
23 doing that because that's their only means for putting fish  
24 in their own freezers. That isn't enough. And I would not  
25 want to see a larger allocation for the educational fishery  
26 in lieu of a subsistence right. I do not want to give  
27 that.....

28  
29 MR. ROMIG: Yeah, I understand that. I guess  
30 I was just looking at other avenues of.....

31  
32 MS. MARRS-WELLS: And I appreciate that. I --  
33 you know, I was thinking about, you know, we're always  
34 talking about the fish, but subsistence isn't just fish. You  
35 know, if our people were allocate -- oh, one of the things  
36 that you said is, well, how about if we gave you some hunting  
37 time before the hunting season opened? Well, our season now  
38 opens August 20th. I can't imagine going out August 1st and  
39 shooting a moose in the hot sun and trying to hang it. We'd  
40 have flies and rot and that is -- that's just not our way of  
41 doing and caring for the meat.

42  
43 It's the same as now, I have to wait until May or  
44 late May to dry my fish, and so I'm out everyday going over,  
45 sometimes by the hours, watching my fish to keep the blow off  
46 of it from the flies. Rightfully and traditionally, we dried  
47 our fish in early May before the flies even started to blow  
48 and it's -- you know, it becomes a hinderance. But I do  
49 appreciate that you are thinking of other ways to supply our  
50 needs.

00083

1 I wanted to say another thing. I wrote down. We  
2 talked -- you asked about could the Peninsula support the  
3 need that we have there, you know, you talked about the  
4 increase in the population. We have -- I think it was the  
5 Kalifonsky Beach Elementary School that started a "Brake for  
6 the Moose" Program and we have signs on our roads, our rural  
7 roads that tell how many moose have been killed by drivers in  
8 a year. And I think the total is upwards of 300 and some,  
9 and that isn't counting that amount that starved to death  
10 this year because of the harsh winter and the amount of  
11 snows. Now, if our people had been allowed our subsistence  
12 right to take and harvest the moose, not only would we be  
13 thinning out the population that has to survive -- the moose  
14 population that has to survive on the food that is available  
15 for them, we would also be supplying the need of our people.  
16 Three hundred moose is a lot of moose to be killed vehicles,  
17 so there is a population there, in my opinion.

18  
19 CHAIRMAN LOHSE: Anybody have any questions  
20 for Susan?

21  
22 (No audible responses)

23  
24 CHAIRMAN LOHSE: Thank you, Susan.

25  
26 MS. MARRS-WELLS: Thank you for listening to  
27 me.

28  
29 CHAIRMAN LOHSE: Wilson Justin, I saw him  
30 here before lunch, I don't see him now. I'll put him on the  
31 bottom of the stack.

32  
33 Mary Lou.

34  
35 MS. BOTTORFF: Go ahead, say it.

36  
37 CHAIRMAN LOHSE: I'm leaving the last names  
38 to you folks.

39  
40 MS. BOTTORFF: My name is Mary Lou Bottorff  
41 and I'm originally from the Nome area, adopted by the  
42 Kenaitze Tribe. And I'm one of those subsistence people that  
43 require the food. I require seal, beluga, everything like  
44 that. And I've had to import my meat from the Nome area or  
45 from the northern part of Alaska. And I would ask you to  
46 consider rural preference for the Kenaitze Tribe and support  
47 the Kenaitze Tribe rural area.

48  
49 And you asked Archie a question about a whole  
50 generation missing and why it's bringing us back now to

00084

1 teaching, it's because many of us were sent away to schools,  
2 away from our areas, away from our food for nine months at a  
3 time and back home for three months and what can you do in  
4 three months? You lose a whole year.

5  
6 Gosh, I have all kind of little notes here. I have  
7 some visual. Susie Marrs also mentioned the flies and bugs  
8 and blowing on fish, I have saved my fish throughout the  
9 winter and am now drying fish because there are no flies.  
10 The times that we are allowed to catch the fish is when it's  
11 very warm, the flies are blowing and then it starts raining  
12 and you lose all your fish.

13  
14 So right now I'm just going to pass around a little  
15 picture I have of hanging fish, I've got 20 more to do. This  
16 is the first 10. These are the pictures -- I have a  
17 granddaughter that I'm -- well, I've raised for a while,  
18 she's now 13, but she is also learning subsistence way of  
19 life, she knows how to cut fish with an ulu. She has cut for  
20 the ICC Conference in Nome, the beluga and the black muktuk,  
21 oogulrook (ph), coke they call it, walrus hide. She's  
22 learned to clam dig, she knows all the greens to pick, the  
23 tea. She got very mad at me one year she wanted to go out  
24 and the snow was on the ground and she said "Nana, let's go  
25 pick berries." I said "there's no berries." "Well, then  
26 let's go pick tea." She just wanted to pick something.

27  
28 But, like I say, I moved from the Nome area to the  
29 Kenai area, adopted by the Kenaitzes, they also adopted my  
30 sons and my grandchildren and I'm very proud of that. And  
31 just being able to do subsistence on the Peninsula. I mean,  
32 I don't care, I'll share, but -- I like to also teach. And  
33 another thing is the -- I think that the people that are  
34 fighting us have their animals penned up. They have their  
35 cows in fences, their pigs in fences. They have fish farms.  
36 We're out there, you know, scraping around the woods and  
37 rivers trying to get our fill. And we just don't go to the  
38 store to buy dry fish, unless you go to George's Market, and  
39 that's very expensive.

40  
41 I think that's about all I have.

42  
43 CHAIRMAN LOHSE: Does anybody on the Council  
44 have questions for Mary Lou?

45  
46 (No audible responses)

47  
48 CHAIRMAN LOHSE: Only got one question.

49  
50 MS. BOTTORFF: Yes, sir.

00085

1                   CHAIRMAN LOHSE: After fish has been frozen,  
2 does it dry okay?

3  
4                   MS. BOTTORFF: It's very good. That's it  
5 right there.

6  
7                   CHAIRMAN LOHSE: Yeah, I know, I saw the  
8 pictures.

9  
10                  Don.

11  
12                  MS. SWAN: He's going to go to the dentist.

13  
14                  CHAIRMAN LOHSE: You're going to go to the  
15 dentist? We're going to excuse Don, he has to take off for  
16 the dentist.

17  
18                  I was just wondering, thank you.

19  
20                  MS. BOTTORFF: It dries fine.

21  
22                  CHAIRMAN LOHSE: It dries fine. The cells  
23 aren't broken enough to hurt anything?

24  
25                  MR. ROMIG: Mary.

26  
27                  MS. BOTTORFF: Mary Lou.

28  
29                  MR. ROMIG: Mary Lou, I guess my biggest  
30 question was do you see a more of a -- is it going to become  
31 more divisive as far as -- you know, we have to come back  
32 with some type of management program and, you know, there's  
33 going to have to be allocations. Right now there's sport and  
34 the commercial and so on and so forth. So we're, in a sense,  
35 reinventing the wheel. Do you see a problem with the, you  
36 know, the allocation of the fish? Fisheries is so big on the  
37 Kenai, it's the social, economical factors that weigh into  
38 everything, do you see a problem with the allocation of, you  
39 know, your share of the fish versus -- you're a very small  
40 percentage of people, the indigenous people on the Kenai. If  
41 you take and gave each one of you 50 fish it wouldn't amount  
42 to anything. And I guess what I'm getting at is if we turn  
43 the whole Peninsula rural and everybody goes out and gets  
44 that -- you know, their subsistence fish, do you see a  
45 problem with the allocation with the -- I know a lot of the  
46 old timers are commercial fishermen and I mean is there going  
47 -- will it coincide or will there be a new -- in essence, a  
48 complete new -- it's going to have to be a completely new  
49 program, allocation program.

50

00086

1           In other words, we're -- you know, I'm glad to see  
2 the people here supporting the -- you know, this subsistence,  
3 but, you know, when I was at the Kenai meeting a couple of  
4 months ago it was closer for those other people to get -- the  
5 opposition kind of outnumbered the people that were in  
6 support of it, so I'm trying to weigh in, you know, where can  
7 I -- where am I going to put myself. You know, I'd like to  
8 support you, especially the people that have fished there for  
9 hundreds of years, but at the same time I'm getting a lot of  
10 pressure from the non-indigenous people, so to speak, to --  
11 you know, they don't want the subsistence at all, they don't  
12 want the rural, and I see kind of an allocation problem  
13 there. And I'm not quite sure how -- if I was to vote to  
14 make this a rural area, the whole area rural, I'm not quite  
15 sure whether that would solve the problem of not getting  
16 enough fish because.....

17  
18           MS. BOTTORFF: Well, when you say rural now,  
19 does that mean it's going to be just rural, the Peninsula, or  
20 are you including all the people from Anchorage that come  
21 down to do all their fishing and hunting and et cetera?

22  
23           MR. ROMIG: Well, I guess, you know, what  
24 we're considering here is a rural it would be the Kenai  
25 Peninsula, just the Kenai.

26  
27           MS. BOTTORFF: I think it will work okay.

28  
29           MR. ROMIG: You think it will work okay.

30  
31           MS. BOTTORFF: As long as we're not dragging  
32 everybody in from the whole state, you know, down in that  
33 area.

34  
35           MR. ROMIG: Yeah. Okay.

36  
37           MS. BOTTORFF: But I am for subsistence.

38  
39           MR. ROMIG: Yeah. Well, I am for  
40 subsistence, too, but I'm also for, you know, good -- you  
41 know, conservation, so that the -- the return runs in five or  
42 six years are still strong.

43  
44           MS. BOTTORFF: Oh, I agree with you.

45  
46           CHAIRMAN LOHSE: Any other questions for Mary  
47 Lou?

48  
49           (No audible responses)

50

00087

1 CHAIRMAN LOHSE: Thank you.

2  
3 MS. BOTTORFF: Uh-huh.

4  
5 CHAIRMAN LOHSE: Thank you, muchly. Liz.

6  
7 MS. DALTON: You can't pronounce my last  
8 name?

9  
10 CHAIRMAN LOHSE: I can. Dalton.

11  
12 MS. DALTON: Yeah. I put in my letter, so I  
13 don't have my notes with me. You know, I'm really nervous.  
14 I guess I wanted to respond to what you said -- somebody  
15 mentioned this morning about a gap, generation gap, and from  
16 my personal experience that there is a generational gap  
17 because of alcoholism. I grew up in an alcoholic home and my  
18 dad was so into his drinking that somewhere along the line  
19 the subsistence became secondary.

20  
21 And I've been working for the Kenaitze Indian Tribe  
22 for almost a year and in that year I have been learning about  
23 my heritage and my culture. I've been learning how to take  
24 pride in who I am. I've spent a lifetime of being ashamed of  
25 being an Alaskan Native and it hasn't been until I started  
26 working for this tribe that I've realized how important it is  
27 to take pride in who I am.

28  
29 Arthur mentioned this morning that he didn't have  
30 anyone to teach him to hunt. I have two boys, one is  
31 10-years-old and one is 17-years-old, none of them have had  
32 the opportunity to hunt. They're not privileged to have a  
33 father like you. You know, their father has been in and out  
34 of jail and going through the Kenaitze Indian Tribe both my  
35 sons have been in their fish camp. And this past summer is  
36 the first time I've done that. And I've learn through --  
37 Bonnie has taught me how to can fish. I've through Mary Lou  
38 how to dry fish and I'm learning how to pickle fish and all  
39 of this is through work.

40  
41 And I've been really having a lot of fun learning  
42 about the subsistence way of life. And, you know, I feel  
43 like there's a lot more that can be learn and I'm looking and  
44 hoping that maybe some day my boys can go on a traditional  
45 hunt. But I'm learning. This is all new to me and I don't  
46 want -- I -- my sister is writing a book and she's talked  
47 about things when she was little, how my dad used to go out  
48 and gather sea gull eggs and seaweed and do a lot of things  
49 that I -- you know, I can't imagine.

50

00088

1           Since I've been working at the Tribe I've been  
2 learning about the foods that grow around here. And  
3 realizing that there's a lot of resources here, you know,  
4 that I'm just learning about. So I'm really in support of  
5 the tribe and the subsistence.

6  
7           That's it. Thanks.

8  
9           CHAIRMAN LOHSE: Thank you, Liz. Is there  
10 anybody that has some questions for Liz?

11  
12          (No audible responses)

13  
14          CHAIRMAN LOHSE: Thank you, muchly.

15  
16          MS. DALTON: Thank you.

17  
18          CHAIRMAN LOHSE: Never be afraid to talk in  
19 front of us.

20  
21          MS. DALTON: Okay.

22  
23          CHAIRMAN LOHSE: Okay, we're to Carol Daniel.

24  
25          MS. DANIEL: It's good that you put the  
26 lawyers last because a lot of people have said what needed to  
27 be said in a lot more eloquent terms than I ever could.

28  
29          My name is Carol Daniel and I'm an attorney. I've  
30 been representing the Kenaitze Indian Tribe on the rural  
31 issue, actually, since the mid-'80s. First in the Kenaitze  
32 versus State of Alaska case that was decided by the Ninth  
33 Circuit and eventually was dismissed without ever reaching  
34 the final merits by the District Court when the Federal Board  
35 -- I mean when the Federal system went into place. And so  
36 litigation was then brought in the State Court system and so  
37 there's a case pending over in the State Court system over  
38 trying to regain subsistence rights for the people on the  
39 Kenai Peninsula.

40  
41          The issue before the Council, as I understand it, is  
42 whether the special circumstances exists to warrant the Board  
43 taking up the Council's recommendation. The Council has  
44 recommended twice that the Kenai Peninsula be found rural.  
45 And so the issue is whether the Board -- special  
46 circumstances exist for the Board to take that up now,  
47 out-of-cycle, or whether the matter should be put off until  
48 after the 2000 census.

49  
50          I want to address special circumstances very briefly

00089

1 because I think it's been adequately covered by the testimony  
2 that you've heard today. And in past testimony, actually,  
3 before this Council. I also want to briefly comment on the  
4 nature of the comments that came before the Council during  
5 the public hearing process on the Kenai Peninsula, and some  
6 of the written comments, and briefly respond to those. And  
7 also try to hit upon a couple -- respond to a couple of  
8 questions that's come up today in the public testimony.

9  
10 In terms of whether to put this off to the year 2000,  
11 let me start by saying that, first of all, the population  
12 data in the 1990 census is updated on an annual basis by the  
13 Department of Labor, the State of Alaska updates that  
14 information annually, and so it's not as if there's not  
15 information out there that's relevant to the demographics and  
16 social and economic characteristics of the Kenai Peninsula.  
17 That information is there and can be used by the Board in  
18 reconsidering its rural determination on the Kenai Peninsula.

19  
20 The other thing is if you wait, we're taking not one  
21 year, we're not talking next year, we're talking two, three  
22 years. As all of you know, I mean, the Board meets very few  
23 times during the year and this Council meets only a few times  
24 a year and so we're talking not the year 2000, but the year  
25 2003 or 4 or who knows, you know, when all the data is  
26 collected and the Board goes through the process assimilating  
27 that information.

28  
29 So since the information is there and the testimony,  
30 I think, in these hearings and in the hearings that were  
31 conducted during the customary and use determination  
32 considerations on the Kenai Peninsula have actually been more  
33 extensive than the Board took when it made the initial  
34 determination. So you've heard more testimony on the  
35 rural/nonrural nature of the Kenai Peninsula in these  
36 hearings than the Board had initially. And I think that in  
37 the course of those hearings new information has come out  
38 that should be taken into consideration and that show that  
39 errors were made in making the determination of rural for the  
40 Kenai Peninsula.

41  
42 To put it off really ignores the fact that the tribe  
43 has been coming to this Council and to the Board since 1995  
44 asking that this matter be taken up. And this Council has  
45 recommended twice, so the time has come to deal with the  
46 issue and I don't think it's fair to put it off for another  
47 two or three years.

48  
49 In terms of special circumstances, I'll just briefly  
50 list what we see as special circumstances. Of course, the

00090

1 initial determination was made without any input from the  
2 Regional Council because the Council had not been set up at  
3 that time. Since then the Regional Council has twice  
4 recommended that the communities on the Kenai Peninsula be  
5 considered -- classified as rural, and that in itself, is  
6 reason -- is a special circumstance that should be taken into  
7 consideration by the Federal Subsistence Board.

8  
9 The original determination for the Kenai Peninsula  
10 were made, basically, in the same fashion as the State of  
11 Alaska had done in the past. The Ninth Circuit rejected the  
12 State's approach of looking at socio-economic considerations  
13 as being the primary considerations and said that the State  
14 needed to look at population and population density as  
15 significant characteristics of a rural area.

16  
17 The Federal Subsistence Board adopted a narrow  
18 approach and although it used populations it did so in a way  
19 that basically by aggregating communities it did away with  
20 the use of population figures. And we submit that that is an  
21 error that needs to be corrected. It wasn't an approach that  
22 was followed in other communities, for instance, in  
23 Ketchikan, Saxman was not aggregated with Ketchikan. There  
24 are other examples in the way the Federal Subsistence Board  
25 went about making the rural determinations where a different  
26 criteria were applied differently to other parts of the  
27 state. And the Kenaitze are asking that the criteria be  
28 applied to their communities, the communities on the Kenai  
29 Peninsula in the same fashion that they were applied  
30 elsewhere.

31  
32 In terms of errors in the aggregating of communities,  
33 the testimony pointed out, I think, that problem with Kasilof  
34 being lumped with Soldotna and Kenai. The children in  
35 Kasilof go to school in Ninilchik. Kasilof is no more  
36 socially and economically integrated with Soldotna than it is  
37 with Ninilchik. And yet one place is rural and one is not.

38  
39 How does Moose Pass differ that significantly from  
40 Cooper Landing? Or Kalifonsky from Ninilchik? At any rate,  
41 I would remind the Council that Ketchikan had a population of  
42 7,000 in 1980 when ANILCA was enacted and that was Ketchikan  
43 proper, that was not the communities around Ketchikan. And  
44 had they looked at aggregating communities around Ketchikan  
45 we'd be talking more in terms of 10 or 12,000 a population  
46 figure. But here the communities on the Kenai Peninsula,  
47 even though they're separate communities, none of which have  
48 a population of over 7,000, are all -- a lot of them are  
49 lumped together and found to be nonrural because of that  
50 aggregation.

00091

1           The new demographic and social economic information  
2 relating to the Kenai Peninsula, even using the Federal  
3 Subsistence Board's regulations were analyzed by the  
4 Institute of Social and Economic Research recently and  
5 submitted in a report, a very detailed report, to this  
6 Council and that was information that was no available at the  
7 time the Federal Board made the rural/nonrural determinations  
8 on the Kenai Peninsula and constitutes new evidence.

9  
10           I think in terms of looking at special circumstances  
11 that it is broader than just a sudden population change. I  
12 think that in the legal context you can look at new  
13 information, you can look at errors that have been made, you  
14 can look at whether the criteria was applied properly and we  
15 submit that all of those reasons are reason to justify taking  
16 this matter up out-of-cycle.

17  
18           Finally, the originally determination was made  
19 without regard to the fact that Title VIII is Indian  
20 legislation. At the time that was argued to the Board and  
21 the Board had an opinion at that time that it was not Indian  
22 legislation, and they disregarded that, they did not give it  
23 a broad interpretation. Since then the agency attorneys, at  
24 least, for the Solicitor's Department has instructed the  
25 Federal Board that ANILCA is Indian legislation and it should  
26 be interpreted broadly.

27  
28           And that really makes a difference in how you  
29 interpret terms that have no definition in ANILCA. If you  
30 give it a broad interpretation as other Federal agencies have  
31 done in terms of relief and programs for the Kenai Peninsula,  
32 as Martha King will cover, a number of Federal programs on  
33 the Kenai Peninsula and the communities down there eligible  
34 for Federal programs, under a definition of rural. So the  
35 Board made a mistake in not interpreting that term when it  
36 was making these determinations in a broad sense, that gives  
37 a broad construction to the rural -- to the term rural.

38  
39           In terms of the comments, most of the public comments  
40 received during the public hearings, I would say 90 percent  
41 of the comments were not really relevant to this issue that  
42 this Council was asking for input on. A lot of the testimony  
43 had to do with people who don't agree with ANILCA rural  
44 priority, they just as soon see ANILCA amended to do away  
45 with the rural priority. There were claims that the rural  
46 priority violates the State's Constitution and that Federal  
47 management is bad for the resources. Most of those were  
48 conclusory statements, very heartfelt, but not supported by  
49 any kind of analysis of whether the communities are rural or  
50 not rural. And so they should not have any bearing on the

00092

1 Council's recommendation. It's not a popularity contest,  
2 it's not how many people come in and testify one way or the  
3 other. It's a legal issue that has to be determined, based  
4 on what the characteristics of the community are, what the  
5 mandates of the Federal law are and what the Federal courts  
6 have interpreted the Federal law to mean and not how many  
7 people say they don't like the Federal law or that it should  
8 be something different.

9  
10 A lot of people testified they didn't think any  
11 communities on the road system should be rural. All -- or  
12 that it would devastate the sport and commercial fishing  
13 industries. All of that was not supported with any kind of  
14 factual information that would support that. In fact, the  
15 areas, like Prince Williams Sound and Bristol Bay have huge  
16 commercial fisheries and sport fisheries out in those areas  
17 and subsistence fisheries, and all of the operate and the  
18 allocation is shared between those users. It's -- it just  
19 does -- I mean, there's no facts to support the proposition  
20 that the same wouldn't work on the Kenai Peninsula.

21  
22 In fact, in -- I think it was in 1995 when the  
23 Kenaitze Indian Tribe won their case in Superior Court in  
24 Anchorage and the court held that the State's priority was  
25 unconstitutional. Or the way -- the State's nonsubsistence  
26 areas were unconstitutional, the State put in place  
27 subsistence fisheries on the Kenai Peninsula, and those  
28 fisheries were opened to all Alaskans. And when the Supreme  
29 Court reversed that case those fisheries were converted to  
30 personal use fisheries, and those are the fisheries that are  
31 down there now.

32  
33 Now, they've been cut back on to operate, as I heard  
34 someone testify this morning, from mid-June to the end of --  
35 or mid-August -- or maybe it's the first of August, but those  
36 fisheries are opened to all Alaskans. And if it's a rural  
37 priority under the Federal system it's going to be open for  
38 rural subsistence users, not all Alaskans. So when you have  
39 the magnitude of the fisheries taking place in the Kenai  
40 Peninsula there are enough fish to satisfy the subsistence  
41 uses as well as the commercial and sport uses of those  
42 resources. It will mean some different allocation, but there  
43 are enough of the resources to satisfy those subsistence  
44 uses.

45  
46 In terms of the number of people, again, you can't  
47 rely on the fact that there were a majority of the people who  
48 testified in the Kenai hearing that were opposed to finding  
49 the Kenai communities rural, because most of those comments  
50 or a lot of those comments were not supported by evidence and

00093

1 there were a lot of people, as someone else testified that  
2 were in the hearings that felt intimidated and didn't  
3 testify. There were 120 people at those hearing and only 44  
4 people testified. But, again, the bottom line it's not  
5 really how many testified for or against, it comes down to  
6 applying the criteria.

7  
8 In terms of a couple of questions that were raised  
9 today, I wanted to clarify that there -- and maybe it has  
10 already been clarified, there are no subsistence fisheries on  
11 the Kenai Peninsula under State law or Federal law. There  
12 are some Federal subsistence hunts for the few communities on  
13 the Kenai Peninsula that now qualifies for rural, but there  
14 are no State subsistence hunts.

15  
16 And then I've addressed the issue of will the  
17 resources support all the local users, I think that both the  
18 commercial and sport fisheries are large, they take over 90  
19 percent of the fish currently and it's only a four or five  
20 percent of the fish that go to these personal uses fisheries  
21 and subsistence uses. I think the figures for the salmon  
22 commercially harvested is in the neighborhood of 5,000,000  
23 fish, so I mean -- just as in the personal use fisheries, you  
24 don't have everybody on the Kenai Peninsula participating in  
25 the personal use fisheries, you're not going to have  
26 everybody on the Kenai Peninsula participating in the  
27 subsistence fisheries.

28  
29 I guess in conclusion, before I ask Martha to address  
30 the ways the Kenai Peninsula has been treated as rural by  
31 other Federal programs, is that the evidence is really  
32 overwhelming that the initial rural/nonrural determinations  
33 were not consistent with the Federal law. The Kenai  
34 Peninsula is a rural place, you heard people testify about  
35 the fact -- about the rural characteristic, and I won't  
36 repeat those, but the largest communities are comparable to  
37 Sitka and Kodiak, which are both rural. And the smaller  
38 communities -- you have smaller communities that should have  
39 been treated like Saxman and weren't. There were errors that  
40 were made, they need to be corrected and it shouldn't have to  
41 wait another four or five years to be corrected, it should be  
42 addressed now, out-of-cycle.

43  
44 And with that I'll thank you for your patience, I  
45 know it's been a long day, and I'll let Martha address the  
46 ways that the Kenai Peninsula has been treated rural by other  
47 Federal programs.

48  
49 CHAIRMAN LOHSE: Would you like us to wait  
50 until Martha is done to address you with questions? Or shall

00094

1 we address you with questions.....

2

3 MS. DANIEL: It doesn't matter.

4

5 CHAIRMAN LOHSE: Does anybody have any  
6 questions for Carol right now?

7

8 MR. DEMENTI: Carol, on this rural and  
9 nonrural use, you mean rural residents of Kenai?

10

11 MS. DANIEL: Yes.

12

13 MR. DEMENTI: Only?

14

15 MS. DANIEL: Yes.

16

17 MR. DEMENTI: Okay, thanks.

18

19 MR. ROMIG: Yeah, Carol, you know, we've  
20 recommended twice and, you know, it keeps coming back. You  
21 know, sitting up here and in my position and then listening  
22 to the testimony, you know, in the Kenai area and the  
23 intimidation factors or whatever, what -- you know, you come  
24 across very good and I believe a lot in what you're saying,  
25 but at the same time I have to live in an area where the  
26 majority of those people that are really vocal, you know, are  
27 my neighbors, so to speak, and it puts me in a real  
28 precarious situation. It's -- and I have nothing to gain,  
29 one way or the other, so when I speak, you know, as far as  
30 like allocation issues and this and that, you know, I'm only  
31 speaking as trying to be, you know, neutral. And, you know,  
32 I find it real hard to drive home, you know, after we make a  
33 big decision and these guys get to head north, see.

34

35 So I guess my question to you is do you think that  
36 the issue would be several years down the line if we did find  
37 it to wait till the year 2000? Do you think it would  
38 actually.....

39

40 CHAIRMAN LOHSE: Carol, can I speak.....

41

42 MR. ROMIG: .....just because of the process.

43

44 CHAIRMAN LOHSE: Just before you answer that,  
45 I would like to interrupt that there's an emergency message  
46 for Jannel Hicks. Is Jannel [sic] here and could you see  
47 Bill over.....

48

49 MR. F. JOHN. Joe Neil

50

00095

1 CHAIRMAN LOHSE: Joe Neil Hicks, just see  
2 Bill over there, he's got the message.

3  
4 Thank you, Carol.

5  
6 MS. DANIEL: I think to answer your question,  
7 is that we all know -- we heard somebody from the agency  
8 testify this morning that they didn't get the 1990 census for  
9 a year. Then those figures have to be pulled from the data  
10 and applied and put in a fashion that could be presented to  
11 the Councils, hearings have to be held in the various  
12 communities, so even if you got the information by the year  
13 2001, by the time you're able to set up hearings, get all the  
14 data together, hold the hearings, get back before the Board  
15 with recommendations on it, you're talking at least another  
16 year. And I'm thinking this year the census is going to be a  
17 little more difficult because they're going to do statistical  
18 -- what is it?

19  
20 MS. KING: Statistical sampling.

21  
22 MS. DANIEL: Statistical sampling and so  
23 there's going to be sort of a new process that's being used  
24 that hasn't been used in the past and that may delay the  
25 census figures coming out. None of us know that, but just  
26 the normal process of holding hearings and coming back before  
27 the Board and having those recommendations, we're talking at  
28 least two years. I just don't see it happening in a shorter  
29 time period than two years. And we've just been through  
30 hearings. There have been more hearings that have been held  
31 down there, both in conjunction with the '95 customary and  
32 traditional use findings and the recent hearings. And I mean  
33 just today you probably heard from 15 people, I don't -- I  
34 mean, it's -- you've heard a lot of testimony, more than the  
35 Board had when it made the initial determinations for the  
36 Kenai Peninsula, so you would have -- it just -- it doesn't  
37 make sense to have to go back through all of that process.  
38 And then if you do get data that shows there's been  
39 significant changes, there's nothing that would prevent the  
40 Board from looking at it again in light of those figures.

41  
42 MR. ROMIG: Yeah. I just -- on a personal  
43 way of looking at it, I don't see the -- I honestly don't see  
44 that it's going to make a difference, you know, I mean,  
45 they've been fighting subsistence for how many years now and,  
46 you know, what we do today, I don't know that it's really  
47 going to make a significant -- and if this wasn't one of my  
48 last meetings I was going to, I wouldn't be talking this way,  
49 but I really don't know that it's going to make any  
50 difference, it's been going on since -- well, I've been on it

00096

1 since '93, '91 it was created, '88 or '89 was McDowell's  
2 decision and we're sitting up here on a nice day and I don't  
3 know whether our decision is really going to have any type of  
4 an impact, other than having some articles written in the  
5 Clarion.

6  
7 MS. DANIEL: I would like to think that it  
8 would make a big difference and there have been differences  
9 that have been made and any time this -- I think Allan  
10 Baldwin this morning made a good point, society makes laws  
11 and those laws are meant to be followed.

12  
13 MR. ROMIG: Uh-huh.

14  
15 MS. DANIEL: If at some point society decides  
16 the law is wrong then it will change the law, but along the  
17 way, we all get educated about the importance of these issues  
18 and why there is a law and I think that it makes a huge  
19 difference what you do and that's why -- and the Kenaitze  
20 Indian Tribe thinks it makes a big difference and that's why  
21 they're here and that's why they keep coming back. You know,  
22 one of the special circumstances, I think, that needs to be  
23 considered is that this -- this thing has simmered too long,  
24 the Board has skirted this issue for almost a decade and it  
25 needs to be resolved.

26  
27 MR. ROMIG: Did we make some agreements that  
28 we're not keeping up with, is that really what it comes down  
29 to? I mean, you know, when we became a state, you know, we  
30 had -- we gave the indigenous people certain rights and then,  
31 of course, we pushed for the pipeline and we had, you know,  
32 ANCSA and all that. I'm not quite sure, personally, that --  
33 I don't feel real confident that the decision that comes out  
34 of the meeting today is going to have a whole lot of weight.

35  
36 MS. DANIEL: Well, I hope you're not right  
37 because under the Federal law this Council is supposed to --  
38 its decision are supposed to be given deference unless the  
39 evidence is to the contrary or it's going to be harmful to  
40 subsistence, and somebody help me with the third one.

41  
42 CHAIRMAN LOHSE: Or the resource.

43  
44 MS. DANIEL: Or the resource, and I don't  
45 think that's the case, so your recommendation should be given  
46 great weight, you're the one on the front line that hears the  
47 testimony and you live there and so you know the issues and  
48 so it should be given -- it should be given deference and,  
49 you know, I strongly urge you to follow the law and make that  
50 recommendation to the Board. And then we'll go to the Board

00097

1 and ask them to do their job.

2  
3 MR. ROMIG: Thank you.

4  
5 CHAIRMAN LOHSE: Fred.

6  
7 MR. F. JOHN. Oh, I just want to have -- the  
8 Kenaitze people, they won in court, what happened, it just  
9 got stalled or.....

10  
11 MS. DANIEL: In the State court.....

12  
13 MR. F. JOHN. Yeah.

14  
15 MS. DANIEL: .....or the Federal court? The  
16 State court case is still pending and it's been basically on  
17 hold because the State has been nego.....

18  
19 MR. F. JOHN. Did Kenai win?

20  
21 MS. DANIEL: Huh?

22  
23 MR. F. JOHN. Did the Kenaitze people won?

24  
25 MS. DANIEL: Well, they won initially, but  
26 the Supreme Court reversed them on the lower court's finding  
27 that the non-subsistence areas on the Kenai Peninsula were  
28 unconstitutional and our Supreme Court held that they were  
29 constitutional and sent it back to the Superior Court for a  
30 decision on whether or not the criteria was applied properly  
31 when the State joint Boards found -- the Anchorage, Mat-su  
32 and Kenai Peninsula to be a non-subsistence use area. And  
33 that issue has not yet been decided.

34  
35 MR. F. JOHN. Oh, okay. I just want to make  
36 a little statement here that I don't think the State gave  
37 indigenous people any right, I think they had an aboriginal  
38 right and we gave up that right as aboriginal people to the  
39 State, it was the other way around. I want to make a comment  
40 on that.

41  
42 CHAIRMAN LOHSE: Carol, I have two questions  
43 to ask. Now, maybe I misunderstood something on this last  
44 round of court cases, but didn't the Ninth Circuit Court find  
45 in favor -- did I understand something wrong along the way,  
46 didn't it find in favor of the Kenaitze Indian Tribe on --  
47 what was the exact thing that they found in favor of?

48  
49 MS. DANIEL: Well, it's a little bit  
50 complicated on the legal issues. The case was before the

00098

1 Ninth Circuit on a preliminary injunction and when you seek a  
2 preliminary injunction you look at the merits of the case and  
3 you weight the equities and you sort of say, are they going  
4 to win -- based on everything we see, are they more likely to  
5 win than not. And if you're more likely to win and the  
6 hardship is on your side then the court gives you the  
7 injunction, and that's what happened. The Ninth Circuit  
8 reviewed all the evidence, looked at ANILCA, found the  
9 State's definition and approach to defining rural under State  
10 law did not comply with Federal law and so it held that the  
11 Kenaitze were entitled to a preliminary injunction that would  
12 entitle them to fish under State -- you know, under the --  
13 under a court order, basically, until the court could decide  
14 the merits.

15  
16 So it had to go back to the District Court to decide  
17 the merits. And before the District Court could decided the  
18 merits of the case, the State was out of -- the McDowell case  
19 had come down and so Judge Holland eventually dismissed the  
20 case without prejudice because the State was no longer  
21 involved and the lawsuit was against the State. And so that  
22 issue was never resolved on the merits.

23  
24 We believe had it been addressed by the court and  
25 resolved on the merits that the Kenaitze would have prevailed  
26 because we think that the -- looking at socio-economic  
27 characteristics is the primary focus of determining whether  
28 an area is rural or not rural is not consistent with ANILCA,  
29 as the Ninth Circuit held in the Kenaitze case.

30  
31 CHAIRMAN LOHSE: Okay. But there has never  
32 been a legal decision on that then? It was basically they  
33 allowed you to have an injunction, but the case was never  
34 tried. Now, that is not the case, then, that the Supreme  
35 Court has reversed, is it?

36  
37 MS. DANIEL: No.

38  
39 CHAIRMAN LOHSE: Okay, so that's a  
40 totally.....

41  
42 MS. DANIEL: That's a different case.

43  
44 CHAIRMAN LOHSE: That's a totally different  
45 issue. But basically, then, we have had no legal decision,  
46 other than the -- other than being given an injunction  
47 without hearing the merits of the case on any of this issue?

48  
49 MS. DANIEL: Well, we've been given a legal  
50 decision from the Ninth Circuit that says that rural means a

00099

1 certain thing, that under ANILCA rural means the plain  
2 meaning of the word rural.....

3  
4 CHAIRMAN LOHSE: Right.

5  
6 MS. DANIEL: .....which is population,  
7 population density, rural characteristics. It doesn't mean  
8 throwing as many communities together as you can and.....

9  
10 CHAIRMAN LOHSE: And that is a legal decision  
11 on a court case that was not just the denying of -- or just  
12 the granting of an injunction?

13  
14 MS. DANIEL: That was -- it applies broader  
15 than just the injunction, it threw out the State's  
16 definition.

17  
18 CHAIRMAN LOHSE: Okay.

19  
20 MS. DANIEL: Our point is that the Federal  
21 Board took the same approach and if it were challenged.....

22  
23 CHAIRMAN LOHSE: Okay.

24  
25 MS. DANIEL: .....we think that it would not  
26 withstand that challenge.

27  
28 CHAIRMAN LOHSE: Okay. But basically, then,  
29 it wasn't a case of a trial -- it was a case of a court case,  
30 it was a judge's rule?

31  
32 MS. DANIEL: Right.

33  
34 CHAIRMAN LOHSE: All right. Basically on a  
35 definition.

36  
37 MS. DANIEL: Right.

38  
39 CHAIRMAN LOHSE: Okay. That answers that  
40 question then. Because that's one of the things that's come  
41 up a number of time for special circumstances is that it's  
42 again the law from the standpoint that it's against a legal  
43 ruling and that legal ruling is a judge's ruling on a  
44 definition then?

45  
46 MS. DANIEL: Well, I mean it's the same  
47 thing, it's.....

48  
49 CHAIRMAN LOHSE: See, not being a lawyer.....

50

00100

1 MS. DANIEL: We're saying that the approach  
2 taken violates the Ninth Circuit's interpretation of Title  
3 VIII of ANILCA.

4  
5 CHAIRMAN LOHSE: Okay. The way the Ninth  
6 Circuit Court had interpreted it.

7  
8 MS. DANIEL: Right.

9  
10 CHAIRMAN LOHSE: Okay. And I only had on  
11 other small comment, Carol. And that was, again, the issue  
12 that comes up a lot of times is that -- and you said that  
13 there was sufficient resource to satisfy the needs. And I  
14 think that's kind of what Ben was getting at was, you know,  
15 there's -- the problem we have in the real world is there's a  
16 lot of difference between needs and wants. And all we had to  
17 do is go through the last Fish Board meeting to see what the  
18 difference comes when different groups have bigger wants than  
19 our finite resource has, and in this case sport fishermen  
20 gained, commercial fishermen lost, subsistence fishermen were  
21 just left out in the cold. I mean, basically, we recognize  
22 the fact that it is a finite resource and you don't add users  
23 to finite resource without taking from some other user some  
24 other place. And I think that's the issue that Ben's dealing  
25 with down on the Peninsula.

26  
27 MS. DANIEL: And I understand that issues,  
28 but that issue really is not germane to.....

29  
30 CHAIRMAN LOHSE: To the question, right.

31  
32 MS. DANIEL: .....whether it's rural or not  
33 rural, but I understand, I mean, the politics of the  
34 situation and I do understand that's a concern down the road,  
35 but for purposes of deciding whether it's rural or not, the  
36 Federal law governs that and it's a decision that should not  
37 be made based on who has the allocation now.

38  
39 CHAIRMAN LOHSE: Yeah.

40  
41 MS. KING: Since this Council started poking  
42 around into whether it should be designated as rural or not  
43 you've heard a lot of testimony, including testimony that  
44 Kenai Peninsula communities have been taking advantage of  
45 Federal programs that are specifically designated or set  
46 aside for rural communities. And so in our last letter we  
47 tried to jot down some of those, look them up and jot them  
48 down, bring them formally to you.

49  
50 And what we found was that these communities rely on

00101

1 Forest Service Rural Fire Protection Programs, the Forest  
2 Service Rural Development Program, the Forest Service's  
3 Economic Recovery Programs, the Natural Resource Conservation  
4 Service's Resource Conservation and Development Program, the  
5 Rural Development's Community Facility Long Program, the  
6 Rural Utilities Services Electric Telecommunications, Water  
7 and Waste Utility Programs, as well as the Rural Housing  
8 Service's Rural Development Housing Program.

9  
10 And I think even again today you heard even  
11 additional testimony than what I had concluded that Kenai  
12 Peninsula communities are taking advantage of highway dollars  
13 set aside especially for rural communities and school funding  
14 for, you know, specifically targeted rural communities.

15  
16 So what it appears is that numerous communities on  
17 the Kenai Peninsula are taking part in these Federal programs  
18 that are designated as rural, which indicates that these  
19 communities consider themselves rural and are treated as such  
20 by other Federal agencies. They receive the money to train,  
21 organize and equip their rural fire departments, to improve  
22 their quality of life using natural resources, to obtain  
23 technical and financial assistance for various programs.  
24 They build community facilities with this money. They  
25 provide telecommunications, water and waste utilities and  
26 they purchase, construct and repair their dwellings and  
27 family homes with these Federal dollars.

28  
29 So Council Member Romig has to go back to Cooper  
30 Landing and talk about whether the Kenai Peninsula should be  
31 designated as rural or not and it looks like a lot of the  
32 people out there actually consider themselves rural, at least  
33 for these programs.

34  
35 CHAIRMAN LOHSE: Thank you. I think that was  
36 a very good synopsis on that. Does anybody have any  
37 questions for.....

38  
39 MR. DEMENTI: Mr. Chair.

40  
41 CHAIRMAN LOHSE: Mr. Dementi.

42  
43 MR. DEMENTI: I was just wondering if the  
44 Federal Board declared Kenai Peninsula nonrural what would  
45 happen with all this Federal funding?

46  
47 MS. KING: I don't know.

48  
49 CHAIRMAN LOHSE: Bill.

50

00102

1 MR. KNAUER: Mr. Chairman, Gilbert, none of  
2 those other programs would be affected. All those programs  
3 are separate disjunct [sic] programs. I would be willing to  
4 bet all of them use different definitions of rural. I doubt  
5 if there is one specific qualification for rural that is  
6 consistent across the board for all of them.

7  
8 CHAIRMAN LOHSE: Carol.

9  
10 MS. DANIEL: And if I could just add. That's  
11 true, the definition that they use for these Federal  
12 programs, the definition varies from program to program. Our  
13 point is that if it's Indian legis -- if ANILCA is Indian  
14 legislation it should be interpreted just as broadly as these  
15 other programs that are not Indian legislation that are  
16 bringing benefits to the Kenai Peninsula. And that's our  
17 point is that there are lots of Federal dollars coming down  
18 there based on rural program and the Federal Subsistence  
19 Board had an opportunity to define rural in a sense that  
20 would benefit the intended beneficiaries of that program,  
21 which are Alaska Natives and other rural residents and it  
22 should have been interpreted broadly.

23  
24 CHAIRMAN LOHSE: Thank you. Any other  
25 questions?

26  
27 (No audible responses)

28  
29 CHAIRMAN LOHSE: Thank you for your patience.  
30 Thank you for your conciseness.

31  
32 Okay. We have Martha King.

33  
34 MS. KING: That was me.

35  
36 CHAIRMAN LOHSE: That was you, yes, it was,  
37 what I am -- it's been a long day and it hasn't even started  
38 yet. And Wilson is not back, so I'll put him on tomorrow.  
39 Okay, with that we complete the public testimony unless there  
40 is further public testimony cards that haven't been turned in  
41 on the issue of the Kenaitze tribal request that the Council  
42 recommend that the Board reconsider its rural/nonrural  
43 determinations.

44  
45 And with that we're going to go into agency comments  
46 after a 10-minute break. And I'd like to thank everybody who  
47 testified and staying as much to the point as you could, too.

48  
49 (Off record - 2:44 p.m.)

50

00103

1 (On record - 2:57 p.m.)

2

3 CHAIRMAN LOHSE: We will -- what's the proper  
4 term? I'm not calling it back to order, we had a recess.  
5 Back in session.

6

7 MS. EAKON: Reconvene.

8

9 MS. MASON: Reconvene.

10

11 CHAIRMAN LOHSE: We reconvene the  
12 Southcentral Alaska Subsistence Regional Advisory Council.

13

14 MS. SWAN: Recongeal.

15

16 CHAIRMAN LOHSE: Okay. At this point in time  
17 we're going on to agency comments. Do we have any agency  
18 comments? Or have we received all our agency comments? Do  
19 we have any agency comments, Alaska Department of Fish and  
20 Game or anything like that? Going -- yes?

21

22 MR. HAYNES: Mr. Chairman, I'm Terry Haynes  
23 with the Fish and Game Subsistence Division, I believe you  
24 all have copies of the Commissioner letter to the  
25 Council.....

26

27 CHAIRMAN LOHSE: Right.

28

29 MR. HAYNES: .....but -- that provided  
30 comments and we don't have any additional comments at this  
31 time, based on the testimony you received today. However, if  
32 this process moves forward we would likely review the new  
33 information and possibly have some additional  
34 recommendations.

35

36 CHAIRMAN LOHSE: Okay. Thank you. Are there  
37 any other agency comments at this point in time?

38

39 (No audible responses)

40

41 CHAIRMAN LOHSE: Then at this point in time,  
42 hearing no other agency comments, we'll turn it over for  
43 Regional Council discussion and deliberation on whether  
44 special circumstances exist to consider the request  
45 out-of-cycle and make a recommendation to the Board with  
46 justification.

47

48 Do I have a motion so we can put that on the table  
49 and discuss it? We need a motion to find that there are  
50 special circumstances that exists.

00104

1 MS. SWAN: So move.

2

3 CHAIRMAN LOHSE: It's been moved by Clare  
4 Swan; is there a second?

5

6 MR. F. JOHN. I second it.

7

8 CHAIRMAN LOHSE: And seconded by Fred John,  
9 Jr. Discussion.

10

11 MS. SWAN: Mr. Chairman.

12

13 CHAIRMAN LOHSE: Yes.

14

15 MS. SWAN: I would like to make a motion, if  
16 that's appropriate at this time.

17

18 CHAIRMAN LOHSE: That's what you already have  
19 done.

20

21 MS. SWAN: Well, I mean, I have a resolution  
22 or.....

23

24 CHAIRMAN LOHSE: A resolution?

25

26 MS. SWAN: Can I read it?

27

28 CHAIRMAN LOHSE: Sure.

29

30 MS. SWAN: I move that the Council reaffirm  
31 its recommendation that the Federal Subsistence Board  
32 reconsider its 1991 nonrural determination with respect to  
33 the Kenai Peninsula and declare all of the communities on the  
34 Kenai Peninsula rural in light of the special circumstance  
35 that warrant consideration of the matter out-of-cycle,  
36 including the public comments and testimony received in  
37 November.

38

39 These special circumstances include the following:

40

41 1. The Board's initial determination was  
42 made without input from the Regional Advisory Council. Since  
43 then the Council has held public hearings on the Kenai  
44 Peninsula, eight in 1995, in connection with its customary  
45 and traditional determinations and three in November, '98,  
46 specifically on the "nonrural determinations." It heard  
47 extensive testimony in its March, '98, Glennallen meeting and  
48 again in its fall '98 Anchorage meeting. This makes the  
49 third time since '95 that the Council has recommended that  
50 the Board reconsider its 1991 nonrural determinations and

00105

1 declare all the communities on the Kenai Peninsula to be  
2 rural. The Regional Council's recommendation is entitled to  
3 deference under Title VIII of ANILCA.

4  
5 2. The 1991 rural/nonrural determinations  
6 have been divisive. This matter has been the subject of  
7 continuous proposals and public comment since 1991. It has  
8 become clear that a number of mistakes were made in the way  
9 communities were aggregated and the way the criteria were  
10 applied with respect to the Kenai communities, compared to  
11 other similarly situated communities, like Sitka, Kodiak and  
12 Saxman.

13  
14 3. New information has been provided as a  
15 result of the hearings and a report completed by the  
16 Institute of Social and Economic Research. That report  
17 provides compelling evidence that the Board's earlier  
18 determinations violated the Board's own criteria for  
19 rural/nonrural determinations, as well as the Ninth Circuit's  
20 decision in Kenaitze versus Alaska. This matter should not  
21 be deferred until after the publication the 2000 census, it  
22 needs to be addressed now.

23  
24 Thank you.

25  
26 CHAIRMAN LOHSE: Okay. Clare, that -- I wish  
27 we wouldn't have hurried through the first part because  
28 that's what you could have made for a motion.

29  
30 MS. SWAN: Well.....

31  
32 CHAIRMAN LOHSE: We already have a motion on  
33 the floor and you can withdraw your initial motion, if you  
34 prefer, with the consent of your second.

35  
36 MS. SWAN: I'll do that.

37  
38 CHAIRMAN LOHSE: Does the second consent?

39  
40 MR. F. JOHN. I withdraw my second.

41  
42 CHAIRMAN LOHSE: Okay. Now, at that point in  
43 time, if you wish, you can submit that as a motion, what you  
44 have just read.

45  
46 MS. SWAN: All right. I am submitting that  
47 as a motion.

48  
49 CHAIRMAN LOHSE: Okay. We now have a motion  
50 on the table as Clare just read; is there a second to that

00106

1 motion?

2

3 MR. F. JOHN. I second it.

4

5 CHAIRMAN LOHSE: And Fred John, Jr. seconds  
6 it. Okay. Now, discussion.

7

8 MR. DEMENTI: I think with the amount of time  
9 it takes for, you know, to make a determination, I think we  
10 should act today on it. That is my personal opinion.

11

12 CHAIRMAN LOHSE: You feel that sufficient  
13 special circumstance are in place because of the fact of the  
14 time involved?

15

16 MR. DEMENTI: Yes.

17

18 CHAIRMAN LOHSE: Fred, you got anything you'd  
19 like to say on it?

20

21 MR. F. JOHN. I'd say that I'm going to vote  
22 in favor of this motion because I believe that Title VIII is  
23 Indian legislation and it's supposed to be interpreted  
24 broadly and I don't think it was and I think we should make  
25 it known to the Federal Board that it is Indian legislation,  
26 it should be interpreted broadly. And I believe that Kenai,  
27 I've been down there a lot of time for herring, last time,  
28 and I went down through there and I don't -- the only little  
29 town I'd seen was Kenai. I mean the rest was just one big  
30 rural area. And I don't see anything urban about that place,  
31 except I think I seen one McDonald in Kenai. And I don't  
32 know there might be others, I don't know, might be one at  
33 Seward.

34

35 But what I see down there is a rural community and I  
36 believe subsistence is very vital to the Native people.  
37 Right now it's for rural people, Native and non-Native and I  
38 really believe in -- I believe that we don't take away  
39 subsistence because there is sports and there is commercial.  
40 And I don't have anything against sports, too much, or  
41 commercial, you know, but I believe that those things don't  
42 take away subsistence. I think it's one of the original --  
43 the first group that was in Alaska and I don't think we have  
44 any right. I think if we do that we're taking away from the  
45 original people human right issues and right of rural, Native  
46 and non-Native. I think they have every right for their  
47 lifestyle as any other user group.

48

49 Thank you.

50

00107

1 MR. ROMIG: Mr. Chair.

2  
3 CHAIRMAN LOHSE: Ben.

4  
5 MR. ROMIG: Would it be not necessarily  
6 appropriate, but could I abstain from this vote?

7  
8 CHAIRMAN LOHSE: You may abstain from this  
9 vote. And if you wish, you don't need to make any comment on  
10 it either.

11  
12 MR. ROMIG: That's probably how I'd like to  
13 leave it.

14  
15 CHAIRMAN LOHSE: Okay. Clare, have you got  
16 anything you'd like to say to this motion as the maker?

17  
18 MS. SWAN: Yes, I think -- it seems to me  
19 that in addition to the -- as time goes on, different things  
20 happen and it just struck me a while ago there's a whole lot  
21 of fire and smoke, you know, for something that isn't, that  
22 everyone is denying, that because there are -- we have, as I  
23 said earlier, we have the commercial fishery, it has a name,  
24 it has a life. The sports fishery has life. Personal use  
25 fishery came into being. Every time you turn around there's  
26 a new label. And it's like we just stick labels on things  
27 and then everybody agrees and we'll say, okay, we'll use that  
28 label and that's good. Uh-huh, uh-huh, we all nod at each  
29 other. And when we run out of words or reasons then we say  
30 dollars. You can't take my money. You can't take my money.  
31 You're going to come -- you're going to ruin our lifestyle,  
32 our quality, our everything.

33  
34 Well, subsistence is not money. It's where you live  
35 and it's how you live. And how you share those gifts that  
36 come. The natural resources are gifts and how you share them  
37 with your people, with everybody you live with, and that  
38 includes -- on the Kenai Peninsula it includes the Tribe and  
39 it includes those, what I know in my mind, as they're Kenai  
40 people and they were there. That's what it is. And you do  
41 it knowing that the times will come when you don't have  
42 money, but you don't need it. That will keep you and sustain  
43 you. Subsistence is just what it is, it's not, you know,  
44 everything we try to make it. It's not taking away from  
45 people, it isn't -- it's not a -- well, I guess the Cree  
46 Indians put it in a very good way, they say "you can't eat  
47 money."

48  
49 But we're all so busy saying, well, it's not there,  
50 you guys can't do that. You can't do that. And I think that

00108

1 that, in itself, has become a special circumstance because  
2 everybody else is heard, all their numbers -- you know, the  
3 sportsmen -- I mean the commercial fishermen are going to get  
4 5,000,000 of this and the sportsmen are going to get this  
5 many king salmon and the personal use fishers have got  
6 150,000 last year on the river and by God they're going to  
7 continue. I mean -- well, then we say, what was it, 1994  
8 when the last subsistence count was done and it was a little  
9 over a million point two or something for mixed fish all over  
10 the state. Well, that number doesn't count. And they say,  
11 but you guys are going to ruin our good lives.

12  
13 So I think that that becomes a special circumstance  
14 and I just don't think we have any more time to wait. We've  
15 been back and forth, the tribal people have been back and  
16 forth to the court, we've done everything that everyone ever  
17 said, there are more allocations made on us and more  
18 regulations, that's fine. We're going to keep it even and  
19 that's just what I have to say on that, as far as what  
20 subsistence is.

21  
22 Thank you.

23  
24 CHAIRMAN LOHSE: Anybody else like to make a  
25 comment?

26  
27 (No audible responses)

28  
29 CHAIRMAN LOHSE: If they don't, I'll make a  
30 comment. I'm going to support giving this back to the Board.  
31 I feel if there's any special circumstances it's the lack of  
32 the consistency that was applied to various communities  
33 around the state. I feel that I recognize that that  
34 consistency was due to conflicting or, you might say,  
35 political issues based on other user groups who would like to  
36 make use of the Kenai Peninsula versus someplace like Kenai,  
37 which is more -- no Kenai, versus someplace like Ketchikan,  
38 which is more isolated.

39  
40 I believe that there's information that is available  
41 that was not available at the time that the decision was  
42 made. Like, Carol, I feel a lot of statements on both sides  
43 are statements that are based on feeling more than on facts  
44 and I'll have to leave it up to the Board to decide whether  
45 there was an error in how it was handled, but I think it's  
46 their responsibility to make that decision. It's our  
47 responsibility to ask them to make the decision. It's going  
48 to be their responsibility to decide if the research that's  
49 been done is valid or creditable or even applicable to the  
50 issue at hand.

00109

1           The reason that I would think it could be handled  
2 out-of-cycle is I see a lot of my home community of Cordova  
3 in the Kenai and if the Board finds that they made an error  
4 in the past. If the Board finds that the information compels  
5 them to make a decision that it is rural, the sooner that  
6 happens, the more fair it will be to the people involved. If  
7 the Board does not find that it's rural or does not find that  
8 an error was made in the past, the sooner that decision is  
9 made, the sooner we can get on to something else.

10  
11           A lot of the issues that came up here today, I don't  
12 think the decision is going to make a lot of difference on  
13 because a lot of the issues dealt with fish. And most of the  
14 conflict has dealt with fish. And most of the area that  
15 we're talking about is not under Federal jurisdiction. Most  
16 of the rivers and streams that were mentioned, the Board is  
17 not going to be able to act on anyhow, but I do feel it is  
18 the Board's responsibility, after its been asked twice by the  
19 Council, and been petitioned by other people, to make the  
20 effort to sit down and address the issue. And for that  
21 reason I'm going to vote in favor of this motion.

22  
23           Any other discussion? Ben.

24  
25           MR. ROMIG: No.

26  
27           CHAIRMAN LOHSE: No other discussion? Do we  
28 have a quorum present for voting?

29  
30           MS. EAKON: You have a quorum present for  
31 voting.

32  
33           CHAIRMAN LOHSE: Okay. Then I'll just call  
34 for.....

35  
36           MR. F. JOHN. Question.

37  
38           CHAIRMAN LOHSE: .....the question.  
39 Question's been called. All in favor of the motion as put  
40 before us by Clare Swan, signify by saying aye.

41  
42           CHAIRMAN LOHSE: Aye.

43  
44           MR. F. JOHN. Aye.

45  
46           MR. DEMENTI: Aye.

47  
48           MS. SWAN: Aye.

49  
50           CHAIRMAN LOHSE: Opposed signify by saying

00110

1    nay.

2

3                   (No opposing responses)

4

5                   CHAIRMAN LOHSE: Motion carries unanimously  
6 with one abstention.

7

8                   And I'd like to make a comment. I don't feel that  
9 we're passing the buck by passing it on to the Board. I feel  
10 that that is their prerogative and their responsibility to  
11 make that decision. The most we can do is make a  
12 recommendation, and we have done that in the past.

13

14                  Okay, with that, everybody take a big stretch and  
15 have yourself an M&M. Would anybody else like an M&M?  
16 Gilbert?

17

18                  MR. DEMENTI: No.

19

20                  (Off record comments - M&Ms)

21

22                  CHAIRMAN LOHSE: Okay. We're going on to B,  
23 which is found under Tab N in your think and it's a report of  
24 the meeting of the Board of Game Subcommittee on ATVs. And  
25 Gilbert Dementi will provide us with that report.

26

27                  MR. DEMENTI: On December 5th, I attended a  
28 meeting of Alaska Board of Game Subcommittee on ATVs and  
29 ORVs, off road vehicles, and I volunteered for this meeting.  
30 This meeting was put on by the subcommittee. The members  
31 were hunters, guides, lodge owners and, I think, one State  
32 former Board of Game. And all the subcommittee were really  
33 glad I was there because I guess they -- they didn't know  
34 what to do either, so.....

35

36                  And they also discussed the closed hunting areas, as  
37 walk-in areas only and opening those areas up for ORV  
38 hunting. And the Federal land was also discussed to open  
39 those up for ORV. And I figure that will have a less impact  
40 on Unit 13 for ATVs and ORVs, because Unit 13 is really  
41 impacted with off road vehicles during the hunting season.

42

43                  And the committee said that people should be educated  
44 on hunting and traveling with ORVs on private lands. They  
45 also said that hunters should get acquainted with people who  
46 live in the area. They are going to hunt because -- and  
47 maybe share some of there catch with them, moose meat,  
48 caribou meat, and that way they wouldn't have so much  
49 conflict with ATVs and ORVs.

50

00111

1 And there was a proposal that went before the State  
2 Game Board for ORVs on weekends only. And they didn't  
3 actually vote on that, it was just assumed by one of the  
4 members and he said at the end of the meeting, we didn't take  
5 no vote on this, but I know for a fact -- and he was behind  
6 the weekend only, and he said there would be only two of us  
7 for weekend only ORVs, and the rest were -- and the committee  
8 figured it was too hard for -- to monitor hunters and  
9 recreational vehicles in the area and not enough enforcement  
10 to enforce any laws.

11  
12 And that about concludes my report.

13  
14 MR. ROMIG: Where was that held?

15  
16 MR. DEMENTI: That was here in Anchorage.

17  
18 MR. ROMIG: I know, but where was the area  
19 you were talking about?

20  
21 MR. DEMENTI: Unit 13.

22  
23 MR. ROMIG: 13.

24  
25 MR. DEMENTI: All of Unit 13.

26  
27 MR. ROMIG: Yeah.

28  
29 MR. DEMENTI: That covers from Valdez all the  
30 way to Cantwell.

31  
32 CHAIRMAN LOHSE: Any questions?

33  
34 MR. ROMIG: Was that snowmachines, too?

35  
36 MR. DEMENTI: No, it was just.....

37  
38 MR. ROMIG: ORVs.

39  
40 MR. DEMENTI: .....the wheel.

41  
42 MR. ROMIG: Yeah, all right.

43  
44 CHAIRMAN LOHSE: I know that we had a lot of  
45 input on that in the past, a lot of discussion from some of  
46 the Native groups and that about the impact that ORVs have in  
47 Unit 13 and, speaking for myself, I kind of thought that the  
48 subcommittee was, shall we say, "highly loaded" with people  
49 who are ORV users.

50

00112

1 MR. DEMENTI: In fact, all of them are ORV  
2 users.

3  
4 CHAIRMAN LOHSE: All of them are ORV users?

5  
6 MR. DEMENTI: Yeah.

7  
8 CHAIRMAN LOHSE: As opposed to those who saw  
9 a problem with the ORVs, so it kind came out with the  
10 direction I would have expected.

11  
12 MR. DEMENTI: Yeah. Except maybe there's a  
13 couple of guides there, but I think they use ORVs also for  
14 recreation and stuff.

15  
16 CHAIRMAN LOHSE: So they didn't come out with  
17 any kind of suggestions for -- because I know the Board gave  
18 it to them as a problem for them to come up with suggestions  
19 about the problem. Did they -- they didn't come up with any  
20 suggestions to solve the problem?

21  
22 MR. DEMENTI: There was no problem solved.  
23 And I think the State Board didn't -- I don't think they  
24 acted on it either at their last meeting.

25  
26 CHAIRMAN LOHSE: Okay. Any other questions  
27 for Gilbert on that?

28  
29 (No audible responses)

30  
31 CHAIRMAN LOHSE: Thank you for representing  
32 us and attending it. I'm glad all you guys are connected to  
33 phones and roads.

34  
35 MR. ROMIG: Now that's a different regulation  
36 than a regular, you know, game regulation. Would that fall  
37 under a different category?

38  
39 CHAIRMAN LOHSE: It could be a game  
40 regulation, like none day hunt, you know.....

41  
42 MR. ROMIG: Yeah.

43  
44 CHAIRMAN LOHSE: .....no same day hunting or  
45 no transporting. Those would be game regulations. They  
46 couldn't address whether or not an ATV or ORV could be  
47 there.....

48  
49 MR. ROMIG: Oh, I see.

50

00113

1 CHAIRMAN LOHSE: .....but they could address  
2 it from the standpoint of how it's used for hunting.

3  
4 Okay. At this point we're on C, update on Federal  
5 subsistence fisheries management by Bill Knauer.

6  
7 MR. KNAUER: Good afternoon, again,  
8 Mr. Chairman and Council members. The Secretaries of the  
9 Department of the Interior and the Department of Agriculture  
10 published on January 8th of this year final regulations  
11 expanding jurisdiction to cover fisheries management for  
12 subsistence on Federal lands. These regulations, though,  
13 would not be effective until October 1. This is part of a  
14 phased in implementation that was addressed in the FY99  
15 Appropriations Bill by Congress, which provided for a phased  
16 in approach that would do two things. One, it would allow  
17 additional time for the State to try and resolve the  
18 impending Federal expansion of jurisdiction and resume  
19 management. It would also allow time for the Federal  
20 agencies to develop and implementation plan and determine  
21 what their organization structure and operations would be.

22  
23 As part of that it authorizes the Federal agencies to  
24 spend \$1,000,000 starting on June 1 if the State has not  
25 place a ballot measure -- has not passed a ballot measure.  
26 And then on September 30th, authorizes an additional  
27 \$10,000,000 to the Federal agencies if the State had not  
28 passed a ballot measure by that time. If the State has  
29 passed a ballot measure prior to June 1, they get the entire  
30 11,000,000, if they have passed one after June 1, but prior  
31 to September 30, then they get the remaining 10,000,000. So  
32 there is a little bit of a carrot.

33  
34 The jurisdiction that is addressed in the Federal  
35 final regulations applies to Federal waters only. On the  
36 Kenai Peninsula, as you've already mentioned, this would not  
37 apply to many of the areas of interest, the mouths of the  
38 Kasilof, the Ninilchik, the Anchor, the fisheries in Cook  
39 Inlet, and so on.

40  
41 Secretary Babbitt has stated publicly that he will  
42 strongly recommend that the President veto any action that  
43 would further delay implementation as has been the case over  
44 the past three to four years with a Congressional moratorium  
45 that has been placed in budget bills.

46  
47 The regulations, themselves, us as a basis the  
48 existing State subsistence fisheries regulations to avoid the  
49 unnecessary disruption of fisheries management actions that  
50 are occurring out there right now. This is much the same as

00114

1 occurred back in 1990 when the Federal program assumed  
2 jurisdiction for wildlife, where we started with the existing  
3 State regulations at that time and then proceeded to modify  
4 them to accommodate subsistence users.

5  
6 The major aspects of the Final Rule, it does extend  
7 jurisdiction to Federal waters. The inland waters of both  
8 the Department of Agriculture and the Department of the  
9 Interior are treated equally. In other words, it would be  
10 the waters within or adjacent to conservation system units,  
11 which include national parks, national preserves, wild and  
12 scenic rivers, national wildlife refuges, national  
13 conservation areas, national recreation areas and then,  
14 separately, national forests.

15  
16 A change that relates to wildlife is it would cover  
17 selected, but not yet conveyed lands within the boundaries of  
18 these CSUs, recreation and conservation areas, and new forest  
19 additions, but not the old forests.

20  
21 The Secretaries in the Final Rule have reiterated  
22 their authority to extend jurisdiction off of Federal lands  
23 in rare circumstances. This is something that has only been  
24 done a handful of times, nationwide, over the past 100 years,  
25 so it is a very rare occurrence. It is a very significant  
26 occurrence, a very controversial occurrence, but it is an  
27 authority that the Secretaries do retain.

28  
29 Recognizing that many fisheries management actions  
30 have to occur very quickly in order to either provide a  
31 harvest opportunity or to preserve a run, the regulations  
32 include the authority for the Board to delegate certain in  
33 season actions to their field managers, but that would be  
34 within parameters already specified by the Board.

35  
36 One issue that has received significant attention is  
37 customary trade. The new regulations recognize that there are  
38 regional differences and provide the mechanism for the Board  
39 to utilize recommendations from Regional Councils to allow  
40 regional differences around the state.

41  
42 The customary and traditional use determinations that  
43 appear for fisheries in the Final Rule are a combination of  
44 the C&T determinations that were in effect when the Federal  
45 program took over in 1990 and customary and traditional use  
46 determinations that the Board of Fish as instituted since  
47 then, so it is a combination of those.

48  
49 Also there have been numerous revisions to the  
50 Subpart D regulations to both simplify the language, put it

00115

1 in more plain language that's easier to read, but also to  
2 remove unnecessary verbiage and references to areas where  
3 there are no Federal waters.

4  
5 There are efforts continuing to meet -- between the  
6 Federal Subsistence Board and the members of the Board of  
7 Fish and Board of Game and the Commissioner to work out  
8 protocol for coordinated implementation. And what is  
9 happening right now is the Federal Staff Committee is working  
10 to develop, what we're calling, an implementation plan or an  
11 action plan, which will exam each particular issue and decide  
12 or lay out a process of how we will try and implement it to  
13 have the smoothest phasing. Things such as budget, staffing,  
14 certain issues are being examined.

15  
16 And how to deal with -- there are certain things that  
17 certainly are not finalized yet and we'll be coming back to  
18 the Regional Councils on the customary trade issue, is  
19 certainly one. We're looking at developing a regulatory  
20 process, fine tuning a regulatory process that will work for  
21 fisheries. We recognize that it can't be the same as for  
22 wildlife. For one thing, if we were to have it the same, it  
23 would split the -- it would change regulations right in the  
24 middle of a fishing season, because the wildlife regulations  
25 become effective July 1, and we don't want that to happen.  
26 So we'll probably rotate it out about six months, but there  
27 may be other changes in it as to how certain things are dealt  
28 with.

29  
30 Also we will examine the necessity for coordinated  
31 management and consideration throughout a watershed, in  
32 particular, the Yukon River is of great concern, because it  
33 spans three existing Regional Council right now, and is a  
34 very complex situation with a checkerboard pattern of Federal  
35 and non-Federal waters with users in all user groups, many of  
36 whom are involved in multiple fisheries. The subsistence  
37 fisherman maybe the commercial fisherman, may, in fact, be  
38 the sport fisherman or the personal use fisherman, so we're  
39 trying to work that out.

40  
41 And we're also trying to identify and implement  
42 increased cooperative management activities for tribal and  
43 Native organizations in the area of fisheries management.

44  
45 CHAIRMAN LOHSE: Thank you, Bill. Are there  
46 questions for Bill?

47  
48 (No audible responses)

49  
50 CHAIRMAN LOHSE: So, basically, you're on

00116

1 schedule, just getting things ready in case?

2

3 MR. KNAUER: Just very nervous and very  
4 concerned about the complexity of the entire implementation  
5 process.

6

7 CHAIRMAN LOHSE: Question. If the Federal  
8 government felt that they were not in a position to do a good  
9 job of implementing it, would they subcontract or delegate  
10 some of their authority and some of the decision-making to  
11 the State of Alaska?

12

13 MR. KNAUER: Right now the implementation  
14 process and the coordination process is being examined and  
15 discussed with the State, because certainly we do not have  
16 the internal structure to implement many of the in season  
17 actions that occur. Exactly how that would be done, we don't  
18 know. There are certain legal considerations, whether or not  
19 the State could even do something like that in light of their  
20 requirements that prohibit a rural preference. Whether it's  
21 something that could be worked around by wording or not with  
22 just a Federal oversight, we don't know. So this is  
23 something that is part of the examination that's going on  
24 right now.

25

26 CHAIRMAN LOHSE: Thank you.

27

28 MR. ROMIG: What is the cost of the  
29 equipment, Bill, that the State has invested in fisheries?

30

31 MR. KNAUER: The equipment?

32

33 MR. ROMIG: Yeah, you know, the.....

34

35 MR. KNAUER: The sonars and the counting  
36 materials and things like that?

37

38 MR. ROMIG: Yeah. I mean, you're either  
39 going to have to lease them, you know, or buy them or  
40 whatever. Have you ever.....

41

42 MR. KNAUER: In that regard we will be using  
43 the State's information. The run counts and estimations and  
44 things like that. We do have certain resources in our  
45 fishery resource offices in a number of places in the State,  
46 but nowhere near the amount of equipment or anything that  
47 could even hope to compare with what the State has.

48

49 Just like on wildlife. Right now we use a lot of the  
50 State survey data, harvest information. There are certain

00117

1 places around the state where surveys and censuses are worked  
2 jointly, but there are many, many areas of the state where we  
3 just rely strictly on the State data collection.

4  
5 MR. ROMIG: And do you see the State as being  
6 real cooperative? You know, if it was co-management?

7  
8 MR. KNAUER: The Department of Fish and  
9 Game's number one priority is the protection of the resource  
10 and that is the same priority that the Federal Subsistence  
11 Board and the Federal agencies have in regard to this  
12 program. So in that regard we're all looking to conserve the  
13 health and viability of the wildlife and fisheries  
14 populations here in the state. So I would not see either  
15 agency doing anything to jeopardize the health of the fish  
16 and wildlife populations. And the discussions with the  
17 Department of Fish and Game have been a very cordial and  
18 cooperative nature.

19  
20 CHAIRMAN LOHSE: Clare.

21  
22 MS. SWAN: Bill, are there -- the last thing  
23 you said, to identify and implement cooperative management  
24 opportunities for tribal and Native organizations. Do you  
25 know of any really viable kinds of proposals that have been  
26 put forth by the tribes or other organizations for.....

27  
28 MR. KNAUER: Not yet. Right now we're still  
29 trying to examine where some of these might exist. I would  
30 anticipate it to be very much along the lines of some of the  
31 cooperative agreements we currently have for wildlife with  
32 some of the organizations around the state collecting harvest  
33 information on wildlife. We've had cooperative agreements  
34 with the Tanana Chiefs Conference, with the Council of  
35 Athabaskan Tribal Governments, with Association of Village  
36 Council Presidents and so on.

37  
38 CHAIRMAN LOHSE: Only one question, Bill,  
39 from me, is when you say that you use State information and  
40 count on them for data, surveys and things like this, are --  
41 hard way to put it, but for that information and for that  
42 expertise which costs the State money, do you have any kind  
43 of reimbursement program for the State to give them an  
44 incentive to provide you with that information?

45  
46 MR. KNAUER: We have had ever since the start  
47 of this program a fairly large cooperative agreement with the  
48 State whereby they get a, you know, significant amount of  
49 money, directed at certain studies or efforts that will  
50 enhance the subsistence program. Certainly it's not as much

00118

1 money as they would like to have, certainly it's not as much  
2 as we would like to be able to give them, but I would  
3 anticipate there may be certain aspects of that that would  
4 translate for money related to fisheries also.

5

6 CHAIRMAN LOHSE: Okay. So basically, there's  
7 an attempt to make some kind of compensation?

8

9 MR. KNAUER: (Nods in the affirmative)

10

11 CHAIRMAN LOHSE: Thank you. Any other  
12 questions for Bill?

13

14 (No audible responses)

15

16 CHAIRMAN LOHSE: No. Thank you, Bill.

17

18 Our next one is an update on cooperative agreements,  
19 which is just what Clare just asked about, by Rachel Mason.

20

21 MS. MASON: Thank you, Mr. Chairman. My job  
22 is to bring you up to date on the cooperative agreements that  
23 we have in place or that we're working on to conduct  
24 subsistence harvest research on the Kenai Peninsula. And the  
25 need for more up to date information on some of the areas of  
26 the Kenai Peninsula has long been apparent, but the immediate  
27 impetus for this research was -- originally it was to gather  
28 information related to C&T determinations and, at this point,  
29 it will also be helpful in making rural determinations.

30

31 The research currently involves three areas, one of  
32 them is the Ninilchik area which the way that ADF&G has been  
33 working on it, they've also included the Village of Nikolaisk  
34 (ph), which is in the same general area, that's an old  
35 believer community, as well as households along the North  
36 Fork Road. And another area is on the other side of Homer  
37 along the south coast or the north side of Kachemak Bay,  
38 Bosnashinka (ph) is a Russian old believer community as well  
39 as Fritz Creek Road east. And the third area that's included  
40 in this cooperative agreement is Seldovia.

41

42 And the plan is to eventually involve three agencies,  
43 one is the ADF&G, Division of Subsistence, another is the  
44 Ninilchik Traditional Council and third, the Seldovia Native  
45 Tribe. ADF&G is doing harvest surveys while the tribal  
46 entities will work on oral history interviews and the two  
47 kinds of research will compliment one another.

48

49 As for the harvest surveys, ADF&G is not essentially  
50 done with the field work in both the Ninilchik and the Homer

00119

1 rural areas. There are a few surveys that they're hoping  
2 still will be done, they've been left in the hands of local  
3 interviewers and this is sort of iffy whether or not any more  
4 will come in. But the surveys went very successfully in  
5 Ninilchik, as well as the North Fork Road and on Fritz Creek  
6 Road East and in Nikolaisk (ph), which is the oldest Russian  
7 old believer community. It was a little bit more difficult,  
8 I understand, in the smaller old believer villages, most of  
9 which were founded when factions broke away from the larger  
10 community of Nikolaisk (ph).

11  
12 Residents of Rasdolna (ph), which has, at most, 15  
13 households eventually declined to participate and after an  
14 encouraging initial meeting with a leader from Kachemak Silo  
15 we were unable to recontact him and so that community was  
16 dropped. And sort of a luke warm permission was granted in  
17 Bosnashinka (ph), there about a third of the households  
18 declined to participate and then almost another third, the  
19 men were out fishing and the women didn't feel like they  
20 wanted to give information about the hunting and harvesting  
21 activities, so we got only about a third of the.....

22  
23 As for the oral history component, work on the  
24 cooperative agreement with the Ninilchik Traditional Council  
25 has been put on hold until some problems are ironed for that  
26 organization and their involvement with Federally funded  
27 projects. And we're now in the process of completing the  
28 agreement with Seldovia Native Tribe and we hope that in the  
29 next couple of months that research will be underway as well.

30  
31 That's all I have.

32  
33 MR. ROMIG: Did you scare them out of there  
34 or what?

35  
36 MS. MASON: Who?

37  
38 MR. ROMIG: You said they wouldn't let you in  
39 their houses or what?

40  
41 MS. MASON: Actually in Bosnashinka (ph) the  
42 problem was that the way that the permission was granted was  
43 kind of ambiguous. It was an elder in the community  
44 announced that households could decide for themselves whether  
45 or not they wanted to participate. And some of them --  
46 probably the word got around and some of the said, hey, we  
47 don't have to do this after all, so they didn't want to do  
48 it.

49  
50 MR. ROMIG: Locked their doors, huh?

00120

1 MS. MASON: Right. But actually the Division  
2 of Subsistence was fortunate to have two very able local  
3 researchers in that community and so it wasn't because of the  
4 -- it wasn't because they were scared of outsiders or  
5 anything like that, it was just they didn't feel like doing  
6 it. That was about it.

7  
8 CHAIRMAN LOHSE: Okay. So, basically, most  
9 of the cooperative agreements right now have dealt with  
10 gathering information.

11  
12 MS. MASON: Correct.

13  
14 CHAIRMAN LOHSE: It hasn't been with managing  
15 or anything like that, it's been gathering of information.

16  
17 MS. MASON: Well, actually some of the other  
18 cooperative agreements in other parts of the state have  
19 involved.....

20  
21 CHAIRMAN LOHSE: Yeah. But I mean in our  
22 area.

23  
24 MS. MASON: Our area there -- this is  
25 entirely having to do with gathering information.

26  
27 CHAIRMAN LOHSE: Okay. Any other questions  
28 for Rachel?

29  
30 (No audible responses)

31  
32 CHAIRMAN LOHSE: Okay, Rachel, I'm going to  
33 let you go on to the next one. The update on the C&T Working  
34 Group recommendations.

35  
36 MS. MASON: Okay. I have -- or Helga will  
37 give you some handouts and these are summaries of Regional  
38 Council recommendations and the areas of concern that were  
39 identified for the working group. What I'm reporting on is  
40 the activities of the working group and at the last meeting  
41 of that working group the group discussed the Council's  
42 recommendation and that's what we discussed at your last  
43 meeting, where you developed a recommendation on it.

44  
45 First, to give you a little bit of background, and as  
46 you know, the C&T Working Group was established by the  
47 Federal Subsistence Board in May 1998, this was at the  
48 initiative of problems that the Regional Councils had  
49 identified with the C&T process. And the purpose of the  
50 working group was to establish a future direction of the C&T

00121

1 determination.

2

3

4 The members of the working group were Mitch  
5 Demientieff, Chair, three Regional Council Chairs or members,  
6 I guess they were all Chairs, Dan O'Hara, Craig Fleener and  
7 Bill Thomas. And Staff Committee members, Ida Hildebrand,  
8 Sandy Rabinowitch, Ken Thompson and Keith Goltz. And  
9 Elizabeth Andrews of ADF&G also participated. We have a  
10 couple of the members of the group here, I believe, Ken  
11 Thompson is here and I think Sandy Rabinowitch is here,  
12 perhaps you will be able to comment after I give the summary  
13 on the recommendations of the group as well.

13

14 The working group met three times, and at its final  
15 meeting, which was on November 18th, '98, the working group  
16 reviewed the recommendations of all the Councils on C&T. And  
17 several areas of concern were noted by the Councils, but  
18 there was no agreement or no direction that was pointed to  
19 there and there's no clear direction for changes in C&T. At  
20 its last meeting the working group discussed the  
21 recommendations and they passed a motion by a vote four to  
22 three, which recommended that the Board make no changes at  
23 this time to the C&T process.

24

25 I think it's fair to say that nothing was really  
26 settled by the working group, however, there were some --  
27 there can be some direction or some areas of concern that  
28 were common to the Councils. Only one of the 10 Councils,  
29 which was Eastern Interior, wanted to dispense entirely with  
30 the C&T process, but almost all of them recommended some  
31 change. Three of the Councils, including this one, wanted to  
32 keep the eight factor approach, but two of those, like this  
33 one, did want some changes of approach within the eight  
34 factor approach, or some kind of a different emphasis. Two  
35 of the Councils recommended a modified factor approach and  
36 most of the Councils wanted to have a stronger voice in how  
37 C&T determinations were made. And evidence of that is shown  
38 by the interest in the Council recommendation option.

39

40 What you recommended was to take a version of a  
41 recommendation of the Denali Subsistence Resource Commission.  
42 There was testimony at your last meeting from the Chistochina  
43 Village Council asking to get rid of the unit boundaries and  
44 replace them with.....

45

46 CHAIRMAN LOHSE: Watersheds.

47

48 MS. MASON: .....watersheds, yes. The  
49 aspects of the Denali recommendation that the Southcentral  
50 Council liked were to drop the requirement that there be wide

00122

1 diversity of resources and just make it reliant on fish and  
2 wildlife resources. And something that says there's  
3 proximity to resources to the words "reasonably accessible"  
4 and add a factor stating that local or traditional knowledge  
5 representing the community or area should have significant  
6 influence in making the C&T use determinations. Actually the  
7 Denali SRC had recommended using a five factor modified  
8 approach, but the Southcentral Council voted to say with the  
9 eight factors.

10  
11 So some of the common themes or areas of concern that  
12 were mentioned by the Councils, one of them was the  
13 importance of traditional knowledge, as you recommended for  
14 and this point was made several times by the Councils and  
15 also within the working group. One thing that people  
16 emphasized was that if the oral testimony of knowledgeable  
17 people, knowledgeable local residents, is as valuable kind of  
18 a data as that that comes from scientifically gathered data  
19 in evidence of C&T. So the Councils and the working group  
20 members requested full recognition of traditional knowledge,  
21 both in the proposal analyses and in the Council and Board  
22 deliberations.

23  
24 A second area of concern mentioned by several Council  
25 was the request to do multiple species analysis or looking at  
26 all species within an area. And some of the Council  
27 suggested that doing C&T analyses for one more than one  
28 species at a time would recognize the opportunistic nature of  
29 subsistence uses. And others thought that this would simply  
30 be a more efficient way to gather the information, observing  
31 that a lot of the information that staff gathered for  
32 analyses is the same for the different species, so it would  
33 make more sense to put them together.

34  
35 A third area of common concern several Councils was  
36 the differences between regions or the potential differences  
37 if Councils took different approaches to C&T. And this was  
38 discussed at your last meeting as well. There would be a  
39 possibility, especially if every Council was able to make a  
40 different kind of C&T, that there might be different  
41 approaches, so this would be especially problematic with  
42 overlap proposals.

43  
44 And, of course, there are problems in consistency  
45 that are already evident within the existing C&T process.  
46 Consistency both between regions and even within a single  
47 region.

48  
49 As for the next step the C&T Working Group did not  
50 develop findings that would -- at present, anyway, require

00123

1 changes in the regulations. Although the group did vote to  
2 meet again, at least some of the members of the group  
3 concluded that further meetings were not likely to be  
4 productive, but some additional guidance might be needed to  
5 provide direction to the staff and the Councils on these  
6 areas of concern that I'm mentioning here.

7  
8 Currently the Federal Subsistence Board is awaiting a  
9 Solicitor's opinion on certain aspects of the C&T process and  
10 in the meantime the Chairman, Mitch Demientieff, has  
11 requested that no substantive changes be made to the approach  
12 to the C&T analysis. And, at his request, we're providing an  
13 overview of the working group's work and the Council  
14 recommendation to each of the Councils right now and meantime  
15 the Federal Subsistence Management Program will pretty much  
16 operate as it has been with the current C&T process.

17  
18 And so this is brought to you for your information,  
19 but I'll try to answer any questions. And I'd also like to  
20 turn to Ken Thompson and to Sandy Rabinowitch, who are  
21 members of that working group, to see if they have anything  
22 else to add.

23  
24 MR. THOMPSON: Yes, Mr. Chairman, I'm Ken  
25 Thompson, Forest Service on the Staff Committee, and I was a  
26 member of that committee along with Sandy and others who  
27 Rachel mentioned. I guess I could summarize that when it  
28 finally got down to trying to come up with a recommendation  
29 it was obvious to us that the result of canvassing the  
30 Councils were somewhat a product of how the process was  
31 conducted. I mean, because you're all dispersed around the  
32 state and it's difficult to get you all together to consult  
33 on an issue that has this many possible options for  
34 resolving. We found quite a diversity of opinions and  
35 without being able to consult with one another there was  
36 little opportunity to arrive at some consensus, if you will,  
37 among the Council Chairs or the Councils in general, which  
38 made it difficult for us to come up with a solution which  
39 looked like an obvious, a good solution for redefining the  
40 C&T process.

41  
42 So we kind of thought, well, maybe given the way the  
43 process was carried to that point, we needed to go back with  
44 a non-recommendation to the Board to see if the Board wanted  
45 to bring the Councils together again in more of a consulting  
46 format to see if you all wanted to try to arrive at a  
47 recommendation that perhaps you could all buy into. We were  
48 not convinced and, I think, it's fair to say we remain  
49 unconvinced that there is not that opportunity. I think very  
50 well possibly is an opportunity to have a C&T process that is

00124

1 more acceptable to you all than what we have now. And one in  
2 which you all may be able to buy into. But it's kind of an  
3 awkward point we're at right now. But I believe the Board is  
4 going to go back to the Chairs and reconsult to see if the  
5 Chairs want to come together in a different process.

6  
7 Sandy, can you add to that or.....

8  
9 MR. RABINOWITCH: I'm Sandy Rabinowitch with  
10 the National Park Service. I think both Rachel and Ken have  
11 done a good summary and so I'll be even briefer. Everyone  
12 recognizes the C&T process isn't perfect, but the group was  
13 not able to come up with recommendations that a majority of  
14 the group would find acceptable and make it better. I think  
15 it's a work in progress and I would anticipate that at some  
16 point in the future there'll be motivation to either  
17 reconstitute the group or bring the group back together and  
18 slug away at it some more and see if improvements can be put  
19 on the table that are acceptable to all the 10 Councils.  
20 It's a real tough challenge and I think everyone who was  
21 involved understood that. So my summary is a work in  
22 progress.

23  
24 CHAIRMAN LOHSE: Any questions for them? Any  
25 comments?

26  
27 (No audible responses)

28  
29 CHAIRMAN LOHSE: I think we all do recognize  
30 it's a very imperfect process, but I don't think any of us  
31 have any answers on how to make it better either. Thank you.

32  
33 Tab G [sic], what time have we got right there,  
34 Rachel?

35  
36 MS. MASON: 4:00 o'clock.

37  
38 CHAIRMAN LOHSE: 4:00 o'clock.

39  
40 MS. MASON: Five minute till 4:00.

41  
42 CHAIRMAN LOHSE: Okay. Let's go on with the  
43 Annual Report by Helga.

44  
45 MS. EAKON: Thank you, Mr. Chair. Please  
46 refer to Tab O in your book and for those of you who are here  
47 at this meeting there are copies of the Annual Report at the  
48 information table, if you're interested.

49  
50 At your last meeting in September of '98 you had

00125

1 proffered issues for you 1998 Annual Report. The first of  
2 which was a recommendation that regulations decrease use of  
3 ATVs for hunting purposes. Recommend regulations that  
4 decrease of use ATVs for hunting purposes. And a little bit  
5 ago you just heard Gilbert's report on that.

6  
7 You also wanted the Kenai Peninsula rural/nonrural  
8 determination issue as a second issue on your report and on  
9 page two I will insert your Regional Council recommendation  
10 on the rural issue and your justification to complete the  
11 report.

12  
13 You had also expressed concern about customary and  
14 traditional use determinations, and even through it was a  
15 little bit lengthy I went ahead and included your points of  
16 discussion.

17  
18 And finally you had expressed a concern for a need  
19 for adequate staff, field staff and office staff, to handle  
20 fisheries workload should the Federal government assume  
21 subsistence management of fisheries on applicable Federal  
22 public lands.

23  
24 So if you have additional concerns now is the time to  
25 raise them, Regional Council members.

26  
27 CHAIRMAN LOHSE: Okay. We have in front of  
28 us the proposed Annual Report, and like Helga said, it  
29 covered a lot of things we talked about in our last meeting  
30 and will include other things, our recommendation for ATV for  
31 hunting purposes with Gilbert's report as an attachment. The  
32 Kenai Peninsula rural/nonrural determinations with our  
33 current motion will go in there. Customary and traditional  
34 use determinations, the discussions that we had with our  
35 recommendations for action. And the fact that we recognize  
36 that there will be a need for adequate staff to handle the  
37 fisheries workload should the Federal government take over  
38 subsistence.

39  
40 Does anybody on the Board have any other things that  
41 they would like to see added to this report at this point in  
42 time?

43  
44 (No audible responses)

45  
46 CHAIRMAN LOHSE: In your report on the  
47 hearings on the ATVs, did you express anything as to whether  
48 or not you felt that the working group had come to an  
49 adequate solution or anything like that? Or do we need to  
50 make any recommendations for adequate solutions as a Council

00126

1 or shall we wait and let time go by and see what happens on  
2 that, on the ORVs in Unit 13 and 12, both of which were  
3 brought up to us by CRNA and others.

4  
5 MR. DEMENTI: Yeah, I think the ORVs for  
6 Federal government is -- it's on existing trails only.

7  
8 CHAIRMAN LOHSE: Uh-huh.

9  
10 MR. DEMENTI: But we don't have any -- I  
11 don't know if the Federal government has any -- like our  
12 Council members don't have any say in the State.

13  
14 CHAIRMAN LOHSE: Right.

15  
16 MR. DEMENTI: So, you know, I think maybe we  
17 ought to just wait and see what happens.

18  
19 CHAIRMAN LOHSE: Okay. Let's see if it comes  
20 up as an issue again in the future.

21  
22 At this point in time a motion to accept this draft  
23 and submit this draft to the Board is in order.

24  
25 MS. SWAN: So moved.

26  
27 CHAIRMAN LOHSE: It's been moved by Clare; is  
28 there a second.

29  
30 MR. DEMENTI: Second.

31  
32 CHAIRMAN LOHSE: It's been moved and seconded  
33 that we submit this draft with the following attachments that  
34 are mentioned in there as our Annual Report to the Board.  
35 Discussion?

36  
37 MR. F. JOHN. Question.

38  
39 CHAIRMAN LOHSE: Question's been called. All  
40 in favor signify by saying aye.

41  
42 IN UNISON: Aye.

43  
44 CHAIRMAN LOHSE: All opposed signify by  
45 saying nay.

46  
47 (No opposing responses)

48  
49 CHAIRMAN LOHSE: Motion carries. And, Helga,  
50 I'd like to say that you did a very fine job on it.

00127

1 MS. EAKON: Thank you.

2

3 CHAIRMAN LOHSE: Okay. It sounds like people  
4 are running out of steam. We're to the point where we start  
5 on new business. We have before us a number of proposals,  
6 the time is about 4:30 right now?

7

8 MS. EAKON: 4:00 o'clock.

9

10 MS. MASON: It's only about 4:00.

11

12 CHAIRMAN LOHSE: It's only about 4:00. We  
13 have a lot in front of us. If we all take a five minute  
14 stretch, do you think we can stretch this thing out to about  
15 5:30 today and that would give us a little shot on tomorrow?  
16 If there's no objection to that?

17

18 (No audible responses)

19

20 CHAIRMAN LOHSE: Okay. Let's take about a  
21 five minute stretch.

22

23 (Off record - 4:04 p.m.)

24

25 (On record - 4:14 p.m.)

26

27 CHAIRMAN LOHSE: Fred John, Jr. asked to be  
28 excused, he wasn't feeling real good and he felt that in  
29 order to be viable tomorrow he better go home and take a nap.

30

31 MS. SWAN: Yeah, he drove all night.

32

33 CHAIRMAN LOHSE: He drove all night and he's  
34 asked to be excused at this point in time. I believe we  
35 still have a quorum, Helga, do we?

36

37 MS. EAKON: One, two, three, four our of  
38 seven is a quorum, Mr. Chair.

39

40 CHAIRMAN LOHSE: It is still a quorum, okay.

41

42 MS. EAKON: Still a quorum.

43

44 CHAIRMAN LOHSE: Okay. So at this point in  
45 time we're going to go on to Proposal Number 3. We'll follow  
46 this presentation procedure for each proposal: An  
47 introduction to the proposal with analysis; the Alaska  
48 Department of Fish and Game's comments; other agency  
49 comments; Fish and Game Advisory Committee comments; a  
50 summary of written comments; the public testimony on the

00128

1 issue; and then Regional Council deliberation and  
2 recommendation and either justification for accepting it or  
3 turning it down.

4  
5 So we're going to be dealing with these two  
6 Southcentral Alaska Federal Subsistence Resource Region  
7 proposal, Proposal 3. And with that I'll turn it over to  
8 whoever is doing the lead it.

9  
10 MS. MASON: That would be me, Mr. Chairman.

11  
12 Proposal 3 was submitted by Donald Kompkoff, Sr. of  
13 Valdez and it requests that the residents of Tatitlek and  
14 Chenega Bay be added to those with a positive C&T for moose  
15 in Unit 6(A), 6(B) and 6(C). You'll find it under Tab P in  
16 your book.

17  
18 And the current C&T determination in Unit 6(A) is for  
19 residents of Units 5(A), 6(A), 6(B) and 6(C). And in Units  
20 6(B) and 6(C) there's a positive C&T determination for the  
21 residents of 6(A), 6(B) and 6(C). These determinations were  
22 made in November 1997.

23  
24 To give you some of the history of this particular  
25 proposal, it was motivated by this Council's recommendation  
26 on a 1997 proposal that was for a C&T determination for moose  
27 in Unit 5 and 6(A), that one was combined with Proposal  
28 97-19, which was a proposal for ceremonial harvest of moose  
29 in Unit 6(C). So there was a combined analysis which  
30 considered the C&T for moose throughout Unit 6.

31  
32 And in that staff analysis the conclusion was that  
33 since little or no moose population in Unit 6(D), the  
34 residents of that subunit haven't had a chance to develop a  
35 custom or traditional of moose hunting.

36  
37 Don Kompkoff submitted a 1998 proposal in order to  
38 add the Unit 6(D) villages of Tatitlek and Chenega Bay to the  
39 positive C&T in Units 6(A), 6(B) and 6(C), and last year in  
40 spring, 1998, the proposal was deferred by both the Regional  
41 Council and the Board in order to obtain more specific  
42 information on the moose harvest by Chenega and Tatitlek  
43 residents.

44  
45 And in the fall of 1998 meeting when the Regional  
46 Council discussed this proposal Don Kompkoff, Ralph Lohse and  
47 Nat Good all attested to the uses of moose in Unit 6 by the  
48 residents of Chenega Bay and Tatitlek. So their discussion  
49 provided the basis for most of the changes that were made in  
50 the analysis and the conclusion since the last version of it,

00129

1 which appeared in 1998.

2

3 Just to give you some of the highlights, and I will  
4 emphasize that discussion that came up last fall. Moose are  
5 an introduced species in the Copper River area. Until  
6 hunting season were opened in 1960 there was very little use  
7 of moose by the residents of Unit 6, however, there was trade  
8 with other groups, so the people in Unit 6 were certainly  
9 familiar with moose and had used it before it was introduced  
10 to their area.

11

12 Following the introduction of moose the residents of  
13 the area, certainly of Cordova, quickly adopted moose  
14 harvesting. Moose harvest by the other Unit 6 communities  
15 were much smaller. At your last meeting Don Kompkoff  
16 testified that the residents of Chenega Bay and Tatitlek have  
17 historically hunted moose in Unit 6(A), 6(B) and 6(C). As  
18 for specific areas, he mentioned that the residents of those  
19 villages had used the area of the Bering River, which is in  
20 Unit 6(A) and have also hunted across the Copper River at the  
21 Martin River in Unit 6(B).

22

23 Ralph Lohse, a resident of Cordova, agreed with  
24 Mr. Kompkoff that the residents of Tatitlek and Chenega Bay  
25 had taken part in the limited moose hunt in Unit 6 in the  
26 past.

27

28 Nat Good, a member of the Eastern Interior Council,  
29 who happened to be at this meeting, testified that when he  
30 taught school in Cordova, from 1970 until 1982, he had  
31 observed that Tatitlek and Chenega residents were involved  
32 with the moose hunt in the Cordova area.

33

34 In addition to the testimony of these people, harvest  
35 records show that Cordova hunters have been well represented  
36 among those who have reported moose harvest in each of Unit  
37 6(A), 6(B) and 6(C), however, the moose harvest by -- the  
38 recorded moose harvest by residents of Tatitlek and Chenega  
39 Bay have been quite small.

40

41 Another aspect of moose hunting by residents of  
42 Prince William Sound that was mentioned at the last meeting  
43 was that commercial fishing takes the residents of Chenega  
44 Bay and Tatitlek throughout Prince William Sound and at that  
45 meeting Ralph Lohse stated that the residents of the Prince  
46 William Sound community, including those villages, all fish  
47 together. And this would support the idea that moose hunting  
48 would occur in places where the residents of those villages  
49 had traveled for commercial fishing.

50

00130

1           It was also brought up that there has been a lot of  
2 moving back and forth among the communities in Prince William  
3 Sound, and particularly their -- the residents of Chenega  
4 stayed in Cordova and for a long time -- for nearly 20 years  
5 before Chenega Bay was reestablished. There's also been a  
6 pattern of temporary or long-term migration from those two  
7 Alutiiq villages to the commercial hubs of Cordova and  
8 Valdez.

9  
10           And our conclusion was to support the proposal adding  
11 Tatitlek and Chenega Bay to those communities with a positive  
12 C&T determination for moose in Units 6(A), 6(B) and 6(C).  
13 The justification is that testimony provided at the September  
14 1998 Southcentral Council meeting indicated that although  
15 there has been no moose available for harvest in Unit 6(D),  
16 the residents of Chenega Bay and Tatitlek have hunted for  
17 moose in Units 6(A), 6(B) and 6(C). The evidence brought  
18 forward included the long-term or temporary migrations to  
19 Cordova, as well as commercial fishing that's done by the  
20 residents of those two villages.

21  
22           I'll answer any questions, if you'd like, and I'd  
23 hope that Mr. Kompkoff will also be able to comment on the  
24 proposal.

25  
26           CHAIRMAN LOHSE: Okay. Sorry, I was  
27 daydreaming on that for a second. I was reading something in  
28 your analysis.

29  
30           Are there any questions for Rachel?

31  
32           MR. KOMPKOFF: I'd just like to make a  
33 comment on the proposal that we made and I have -- when we  
34 were living in Cordova, my brother's boy got lucky and got a  
35 drawing for one moose and my brother's wife, Mary, had a  
36 drawing for a cow permit, got lucky and got into one of the  
37 drawings over there. And I've been over there hunting since  
38 -- I've been trying to catch a moose, but I never seem to  
39 catch any, just my luck, I guess.

40  
41           But we've been hunting over there since I could  
42 remember, 1956, I moved -- I went to school over there in  
43 Cordova and I remember seventh grade we were out -- my  
44 brother was out hunting moose and stuff and geese and  
45 everything else over there, you know.

46  
47           And that's just about all I guess.

48  
49           CHAIRMAN LOHSE: Thank you, Don. At this  
50 point in time we have Alaska Department of Fish and Game

00131

1 comments.

2

3

4 MR. HAYNES: Thank you, Mr. Chairman. My  
5 name is Terry Haynes with the Alaska Department of Fish and  
6 Game. We will provide some additional comments on proposal  
7 given that our comments in the materials before you are  
8 comments on the proposals themselves. In some cases we  
9 haven't had a chance to review the staff analyses, so we'll  
10 try to comment on those at this meeting.

11

12 CHAIRMAN LOHSE: Okay. Can I ask you a  
13 question? Would it be possible for you just to comment on --  
14 and can I recall you and recall you and you can just comment  
15 on the individual proposal that's in front of us?

16

17 MR. HAYNES: Yes, that would be fine. I will  
18 comment on the C&T proposals and Mike McDonald, Division of  
19 Wildlife Conservation, will offer additional comments when we  
20 have them on the season and bag limit proposals.

21

22 CHAIRMAN LOHSE: Thank you.

23

24 MR. HAYNES: Proposal Number 3 the Department  
25 does not support that proposal as written. The evidence  
26 presented in the proposal and the staff analysis, as well as  
27 Department of Fish and Game research in the affected  
28 communities has not documented moose hunting in Units 6(A),  
29 6(B) or 6(C). And while we acknowledge that there has been  
30 some hunting that has taken place there by residents of  
31 Tatitlek and Chenega Bay, as has been discussed here earlier,  
32 no evidence has been presented to suggest that that  
33 constitutes a customary and traditional activity consistent  
34 with the eight factors that are used to make the C&T  
35 determinations. The fact that some members of the community  
36 are living in another community, engage in a resource use,  
37 which is commonplace, is not by itself strong evidence of a  
38 customary and traditional use.

39

40 Numerous statements in the staff analysis indicate  
41 that a lack of moose harvested in five separate studies and  
42 evidence that points to other hunting areas as being the  
43 traditional areas used by hunters is further evidence that  
44 moose hunting in these three subunits is not a customary and  
45 traditional activity. And we think those statements kind of  
46 contradict the conclusion that has been made by Federal  
47 staff, so consequently we don't support the proposal as  
48 written.

49

50 CHAIRMAN LOHSE: Okay. Any questions?

00132

1 (No audible responses)

2

3 CHAIRMAN LOHSE: Thank you.

4

5 MR. HAYNES: Thank you.

6

7 CHAIRMAN LOHSE: Okay. At this point in time  
8 we'll go to other agency comments. Are there any other  
9 agency comments, any other agencies that wish to make  
10 comments on this proposal? Forest Service, other regions?

11

12 (No audible responses)

13

14 CHAIRMAN LOHSE: Hearing none, we'll go on to  
15 Fish and Game Advisory Committee comments. Don [sic]  
16 Carpenter. Don [sic], can I ask you a question. You're in  
17 here as testifier, is that as the Advisory Board or are you  
18 also in here as a testifier as yourself?

19

20 MR. CARPENTER: No, this is for the Advisory  
21 Committee.

22

23 CHAIRMAN LOHSE: Thank you.

24

25 MR. CARPENTER: Mr. Chairman, members of the  
26 Council, thank you for this time to come before you. We came  
27 before you in '97. At that time the C&T proposal was for  
28 residents of Cordova for C&T in Unit 6, which that eventually  
29 passed and there was an amendment to that proposal to include  
30 the villages of Tatitlek and Chenega. The comments that I'm  
31 going to make are comments that were derived from Advisory  
32 Committee meetings in Cordova. At these meetings people from  
33 both villages of Tatitlek and Chenega were present. There is  
34 a large population of residents of Cordova that were once  
35 residents of Tatitlek or Chenega and some, you know, still  
36 transit back and forth. These comments are derived from  
37 data, including ADF&G statistics, U.S. Fish and Wildlife  
38 harvest records and conclusions from analysis of the staff  
39 report.

40

41 In beginning the testimony we took a look at criteria  
42 number one which is a long-term consistent pattern of use  
43 without interruptions beyond the control of the community  
44 area. In going through the staff analysis a few points in  
45 dealing with this piece of criteria were quite evident and  
46 our Committee didn't feel that respective to the two villages  
47 that the criteria was satisfied. Some of the reasoning  
48 behind that is a quote from a staff report "harvest tickets  
49 indicated that Chenega Bay residents took four moose between  
50 1985 and '97." So it's a 12 year span which, you know, is

00133

1 quite a span which is, you know, quite a good period of time  
2 to gather information. "Three of them were taken on the  
3 Kenai Peninsula and one in Unit 16, none in Unit 6."

4  
5 That is, like I said, quite a period of time to, you  
6 know, set up a traditional means of harvest and we feel that  
7 even reading the staff report that through ADF&G Wildlife  
8 Conservation statistics there's no evidence proving that  
9 there was a consistent pattern there.

10  
11 In regards to the village of Tatitlek, Tatitlek  
12 residents reported taking two moose in 1987, they reported  
13 it, there was no harvest ticket showing that, that was just  
14 something that was verbal and that data was gathered during  
15 household survey and that was comments made by the people.

16  
17 The only other moose that Tatitlek residents took was  
18 in 19 -- was one taking in Unit 6(C), 6(C) is the closest  
19 area to town, that's a drawing area only. That area is  
20 available for harvest only through the State drawing --  
21 lottery system and that's for cows and bulls. So really that  
22 area is opened for harvest to anyone in the state that is  
23 lucky enough to draw. The odds of drawing are not very good,  
24 but it is available to everybody not just the residents of  
25 Cordova.

26  
27 We believe that analyzing the staff report this  
28 clearly shows that a traditional and consistent pattern of  
29 use has not been established.

30  
31 If you look at some of the other data in the staff  
32 report, it's a quote. "That little evidence to support this  
33 proposal can be found to document harvest or use areas. No  
34 past or contemporary use areas were reported in 6(A), 6(B) or  
35 6(C)." And this is a quote from the staff report.

36  
37 Another quote "there are no recorded harvest of moose  
38 by Tatitlek hunters in 6(A), 6(B) or 6(C)." The harvest data  
39 that was recorded were from Tatitlek residents, which is in  
40 Kings Bay, which is on the west side of the Sound, closer to  
41 Unit 7.

42  
43 One of the main concerns of the Advisory Committee,  
44 and this is in regards to what happened in '97 through the  
45 C&T proposal that was ultimately passed by the Federal Board,  
46 was that special permits could be issued to a specific group  
47 or entity within the community. You know, these moose were  
48 planted, they're non-indigenous to the area. The State has  
49 ruled that there's a no intensive management policy for this  
50 herd. They're quite important to the residents of Unit 6.

00134

1 We are not disagreeing with the fact, and we are not  
2 eliminating that residents of Tatitlek and Chenega do share  
3 in moose. That's quite evident and that still happens to  
4 this day. What we're saying is we feel that by passing and  
5 give a C&T to these two villages that these two villages  
6 would be eligible for a similar special permit as the Eyak  
7 Corporation was granted in 1997 by the Federal Board. We  
8 don't feel that special permits are warranted under the C&T  
9 provision and we would like to do anything to avoid this  
10 happening again, because all it does is take a community,  
11 such as Cordova or Tatitlek or Chenega, and it kinds of tears  
12 them apart this way. Giving special privilege to one group  
13 of people and not giving to another group of people when this  
14 herd of animals was planted and it eventually migrated  
15 eastward, this was started by the community and we feel that  
16 everything should be considered as one.

17  
18           The other part of the problem we have with this  
19 proposal is that there is -- the population of the two  
20 village are definitely not what they once were, and this is  
21 due to several reasons. One of the reasons is that the Exxon  
22 Valdez oil spill, which was a real traumatic thing to people  
23 of the Sound, the Trustee Council purchased and brought  
24 segments of the corporation's land within the Sound. A lot  
25 of the people that were in the villages, some of them moved  
26 to Cordova, some moved to Anchorage, some moved to Valdez,  
27 there's not the consensus of people that there once was in  
28 these villages. We feel that if a C&T was given to these  
29 villages that it would be an incredible problem trying to  
30 enforce at the local level who would qualify for a C&T permit  
31 on a local hunt when it's quite obvious, if you know the  
32 local areas, the family structures -- I mean, if somebody  
33 comes into the Forest Service building and says "I want to go  
34 hunt, I'm from Chenega" it's going to be hard to enforce that  
35 they're not from that village. So that's one of our concerns  
36 as well.

37  
38 In conclusion, we would like to state that it is  
39 possible, still, with the C&T proposal that was passed in '97  
40 for a customary and traditional use of Cordova residents,  
41 with the large influx of people from the two villages and the  
42 consistent residents from those villages that stay in the  
43 town that moose meat could still be shared to the village of  
44 Tatitlek and Chenega through the process of the eligibility  
45 of those people living in Cordova that they'll have if a hunt  
46 was to take place.

47  
48 Thank you.

49  
50 CHAIRMAN LOHSE: Okay. Any questions for

00135

1 Tom?

2

3 (No audible responses)

4

5 MR. ROMIG: So.....

6

7 CHAIRMAN LOHSE: Oops, Ben's got a question.

8

9 MR. ROMIG: Yeah. It sounds like you spent  
10 quite of time on this, Tom. It's the precedent, I suppose,  
11 that you're really worried about setting, isn't it, the --  
12 you know, having this and then this and then this and then  
13 this? Is it really the precedent that it's setting or is it  
14 pretty much the factors just all weighed in or is just a  
15 combination of everything?

16

17 MR. CARPENTER: Well, we believe it's a  
18 combination of everything, you know. The two points we  
19 brought out about the special permits being issued, the  
20 enforcement problem, those are two big points. And the  
21 other, you know, information that was brought before the  
22 Board, was just the analysis of either the staff report or  
23 harvest tickets or, you know, whatever kind of information we  
24 could gather, is that there really isn't a consistent pattern  
25 of harvest that is taking place, even for, say, going back to  
26 the mid-'80s, early-'80s, the last 20 years. You know, the  
27 moose have only been there since 1960, that was when the  
28 first hunt was. You know, we're talking 40 years and for the  
29 last 20 years there hasn't been a consistent pattern of  
30 harvest, so we're just basically going on the evidence and we  
31 feel that there's still ample opportunity for the two  
32 villages to share in the moose, which we are not opposed to  
33 that happening at all. That would be a more natural means  
34 and a traditional means of the way they have gotten moose  
35 meat, is just from people from Cordova sharing the moose with  
36 the villages.

37

38 MR. ROMIG: Yeah, I guess I -- you know, I've  
39 shot moose, you know, in places years and years ago and then  
40 I haven't shot them there for years and years and I guess if  
41 you want -- you know, on the consistency basis, you know, I  
42 wouldn't figure I'd qualify, but sometimes I wonder, you  
43 know, when you take people that are indigenous to the area,  
44 you know, and as nomadic as they were, even though they might  
45 have taken one, let's say, every 20 years, I don't know if  
46 that would qualify them or not, but I don't know that there's  
47 a -- the eight criteria, I don't know if there's a real  
48 definite thing for us to judge on, especially when were  
49 dealing with people that are, you know, from the area.

50

00136

1 MR. CARPENTER: Right. Well, I'm not going  
2 to disagree with you that the Federal eight step criteria is  
3 extremely vague in the way its written and it leaves definite  
4 room for interpretation in the way that the staff does their  
5 analysis and the way that the Council would be able to use  
6 the criteria in finding for such a C&T proposal. I would  
7 definitely agree with you there.

8  
9 So, basically, you know, it's kind of a -- it's a  
10 different process than what we're used to in the state and  
11 we're trying to adjust to be able to, you know, adapt  
12 lifestyle in Unit 6 to both the Federal way and the State  
13 way, and I think that's something that's going to take some  
14 time and we've become more accustomed, even since '97 when  
15 the C&T was passed for moose. So I guess it's, you know,  
16 ultimately left up to you and the Federal Board to decide how  
17 you want to interpret the criteria and if the evidence that's  
18 pretty straightforward in the staff analysis and also the  
19 other information that we presented is evidence enough to  
20 warrant it one way or the other.

21  
22 Our Committee is opposed to this because we feel that  
23 there's ample opportunity for, you know, the moose to be  
24 shared through either the transient residents of Cordova that  
25 have a C&T positive finding, and also some of the other  
26 people that live there that, you know, transient the Sound  
27 and spend time in the different villages.

28  
29 MR. ROMIG: Yeah, I see where you're coming  
30 from. I just -- you know, I have a hard time looking at the  
31 people that travel throughout the state so much throughout  
32 their lives and, you know, establishing a C&T is a difficult  
33 situation.

34  
35 MR. CARPENTER: You're right.

36  
37 CHAIRMAN LOHSE: Any other questions for Tom?

38  
39 (No audible responses)

40  
41 CHAIRMAN LOHSE: Thank you, Tom.

42  
43 MR. CARPENTER: Thank you.

44  
45 CHAIRMAN LOHSE: Okay. At this point in time  
46 we have a couple of other people who have asked to testify on  
47 this proposal. We have Greg Heuschkel.

48  
49 MR. HEUSCHKEL: I'm with the Valdez AC and at  
50 the time we didn't have the qualification of what a C&T

00137

1 meant, but this is basically what the AC felt is that, first  
2 off, Valdez should have a rural status. And this is another  
3 Federal regulation being written and modified because Valdez  
4 has a subsistence and discriminate against both Native and  
5 non-Native due to the pipeline terminal in the area of  
6 Valdez. And that all the residents of the Sound should share  
7 in the resource equally and not be torn apart because of  
8 where they live.

9  
10 And it would exclude people from the village that  
11 took employment opportunities in Valdez. I mean, now they  
12 work and live in Valdez they're really part of the village  
13 anymore, so you're going to cause a dual residency problem.

14  
15 And the other thing I wanted is on the next proposal  
16 for brown bear, we support it.

17  
18 CHAIRMAN LOHSE: You support Proposal 21?

19  
20 MR. HEUSCHKEL: Uh-huh (affirmative).

21  
22 CHAIRMAN LOHSE: Okay. Thank you. Do you  
23 have any questions for Greg?

24  
25 MR. ROMIG: Yeah, I guess the only question  
26 I'd have would be you'd like to see all of Valdez rural?

27  
28 MR. HEUSCHKEL: Yeah, Valdez and probably the  
29 whole Prince William Sound actually, everybody's moving back  
30 and forth.

31  
32 MR. ROMIG: How about the whole state I  
33 think, huh?

34  
35 MR. HEUSCHKEL: Well, I think.....

36  
37 MR. ROMIG: We'll start all over.....

38  
39 MR. HEUSCHKEL: .....Prince William Sound has  
40 kind of unique communities, you know, within it, you know,  
41 you're just picking a few out.

42  
43 MR. ROMIG: Yeah. Yeah, it's a rough one to  
44 decide.

45  
46 CHAIRMAN LOHSE: You're enjoying your last  
47 meeting aren't you?

48  
49 (Laughter)

50

00138

1 CHAIRMAN LOHSE: Any other questions?

2  
3 MR. ROMIG: No.

4  
5 CHAIRMAN LOHSE: Thank you, Greg.

6  
7 Nat Good. Did I just see him run out? No, I didn't.

8  
9 MR. GOOD: I think you have my earlier  
10 testimony, but I listened to my good friend, Terry Haynes,  
11 back here and I'd kind of like to respond to him. The C&T  
12 eight factors come out vague, sometimes some of Terry's  
13 figures can be a bit vague, too. We can't rely on the  
14 numbers from Fish and Game as being biblical or anything of  
15 that sort. For instance, when the people from, let's say  
16 Cordova, reported the moose they had taken, where were they  
17 really from? Were they using Cordova addresses and could  
18 they have been from Tatitlek or Chenega? They frequently  
19 maintain residences in both communities. So I really would  
20 wonder, especially in the earlier years, why anybody would  
21 think that Tatitlek or Chenega residents were not hunting.  
22 They were simply marking on their licenses that they were  
23 Cordova residents, which they were at the time.

24  
25 Then I would ask one question and I'll just -- where  
26 do Chenega and Tatitlek residents get their hunting licenses?  
27 And I'll be really surprised if most of them don't get them  
28 in Cordova.

29  
30 But as far as enforcement goes, I can't see that as  
31 any real problem, most people do have driver's licenses and  
32 identification and it does give their place of residence.  
33 There are things that are used throughout the state to show  
34 where we do live and generally we require those things for  
35 determining where people are residents.

36  
37 Thank you.

38  
39 MR. ELLIOTT: What Advisory Committee did he  
40 represent?

41  
42 MR. GOOD: Delta.

43  
44 CHAIRMAN LOHSE: Delta.

45  
46 MR. GOOD: Delta Fish and Game Advisory.

47  
48 CHAIRMAN LOHSE: And Patrick Wright, is  
49 Patrick here? There he is.

50

00139

1 MR. WRIGHT: Thank you, Mr. Chair. I'm  
2 Patrick Wright, the Chair of the Anchorage Fish and Game  
3 Advisory Committee and I wanted to comment on some of the  
4 proposals and the Anchorage Advisory Committee's actions on  
5 the Federal subsistence priority issues.

6  
7 We held a meeting on the 8th of February, 1999, and  
8 I'll leave here an agenda on that to show that we did cover  
9 these. Each one of the Advisory Committee members had one of  
10 the Federal subsistence booklets before them and we reviewed  
11 all of the Southcentral area proposals. And in view of that  
12 what I would like to do is make my comments right now  
13 pertaining to all of these proposals, otherwise I would have  
14 to be coming back up and you'll.....

15  
16 CHAIRMAN LOHSE: Is that okay with the rest  
17 of the Board? Just grab a piece of paper and as he.....

18  
19 MR. WRIGHT: It'll be real easy, you won't  
20 need to take notes on this.

21  
22 CHAIRMAN LOHSE: We won't need to take notes?

23  
24 MR. WRIGHT: No.

25  
26 CHAIRMAN LOHSE: Okay. Well, I will anyhow.

27  
28 MR. WRIGHT: Okay. This is not, however, the  
29 first time the Anchorage Advisory Committee has taken up  
30 these subsistence priority issues because we have grappled  
31 with these on many other meetings in the past. However, the  
32 continuing encroachment of the Federal government in regards  
33 to our fundamental property rights to fish and wildlife has  
34 prompted the Anchorage Fish and Game Advisory Committee to  
35 take a stand on the subsistence priority issues.

36  
37 And so we are merely reminding all the players in the  
38 subsistence arena to be aware of the protection that the  
39 Constitution of the State of Alaska provides for all of its  
40 citizens equally.

41  
42 Now, upon receipt of the last volume of the Federal  
43 subsistence proposals we've been placed in a position to  
44 support or oppose a mass of proposals that create preferences  
45 amongst users. Now, this concept violates not only common  
46 law, and the example is the case of McDowell versus State of  
47 Alaska, but also common sense. In other words, why should  
48 Alaskans allow this attack on our state's rights?

49  
50 Now, the Anchorage Fish and Game Advisory Committee

00140

1 all participated in writing a letter to Chairman Demientieff  
2 of the Federal Subsistence Board, and I'll provide that here  
3 for your information today, but just for the record, I'd like  
4 to read this into the record at this time.

5  
6 Dear Chairman Demientieff,

7  
8 The Anchorage Fish and Game Advisory Committee is a  
9 creation of State law and therefore adheres to it.

10  
11 In McDowell versus State of Alaska, the Alaska  
12 Supreme Court found that the rural resident priority of  
13 Alaska's subsistence law was unconstitutional. Their four to  
14 one decision in favor of the plaintiffs was based on Section  
15 3, Section 15 and Section 17 of Article VIII of Alaska's  
16 Constitution.

17  
18 Section 3 is about common use and that talks about  
19 fish, wildlife and waters are reserved to the people for  
20 common use.

21  
22 Section 15, is about no exclusive right of fishery:  
23 that says that "no exclusive right or special fishery shall  
24 be created or authorized in the natural waters of the State."  
25 And these are clauses that clearly state the right of the  
26 user of Alaska fish and wildlife.

27  
28 Section 17, is about uniform application and that  
29 reads that "laws and regulations governing the use or  
30 disposal of natural resources shall apply equally to all  
31 similarly situated with reference to the subject matter and  
32 purpose to be served by law or regulation." This clearly  
33 provides equal Protection for use. And I wanted to make sure  
34 that you folks understand that we're delineating a difference  
35 between use and users.

36  
37 Therefore the Advisory Committee respectfully opposes  
38 all proposal by the public or government agencies that  
39 discriminate amongst users. The following stamp displays our  
40 position on the matter and will be placed on the individual  
41 proposals that we oppose.

42  
43 And we have a comment on this stamp and we placed  
44 this stamp on each one of the Federal subsistence proposals  
45 in the Southcentral Region. And that was Proposal Number 3  
46 through Proposal Number 26, inclusive.

47  
48 Thank you and signed the Chairman of the Anchorage  
49 Fish and Game Advisory Committee.

50 I will also leave with you for your information, some

00141

1 of the background documentation that's from the Constitution  
2 of the State of Alaska and also some of the documentation on  
3 the court case from McDowell versus the State of Alaska that  
4 we referenced on that.

5  
6 Now, the main reason that I'm presenting this from  
7 the Anchorage Advisory Committee is because you folks on the  
8 Federal Subsistence Regional Council require quite a bit of  
9 deference by the Federal Subsistence Board and we want to  
10 make sure that you folks understand that message that we're  
11 bring to you. So we're not saying we're opposing these  
12 because of the content of the proposal but because of the  
13 procedure that's involved.

14  
15 We share with you some of your same concerns about  
16 concern for conservation of the resource and allocation for  
17 harvest and those sorts of things. However, we are created  
18 by the State of Alaska and therefore we're having to abide by  
19 those laws and regulations. And one of the things in the  
20 Constitution of the State of Alaska, it's under the  
21 Declaration of Rights, talking about -- in fact, it's the  
22 very first paragraph in the Constitution there and it talks  
23 about equal rights and opportunities and protection under the  
24 law and that all persons have corresponding obligations to  
25 the people and to the State. And that's where we come into  
26 play. In other words, we are representing those folks and it  
27 is our obligation to respond to those laws and comply with  
28 those law. That's why we're making this type of position.

29  
30 Now, along with this there was an agreement with the  
31 U.S. Fish and Wildlife Service and the Alaska Department of  
32 Fish and Game to provided for comments from the Local Fish  
33 and Game Advisory Committees and making sure that we address  
34 these Federal subsistence priority issues, which we have done  
35 on the Anchorage Advisory Committee and so are in compliance  
36 with that and we are appearing to you today so -- bringing  
37 our concerns to you. There also will be a written report and  
38 so -- coming from the Board support section of the Department  
39 of Fish and Game.

40  
41 On a previous meeting that the Anchorage Fish and  
42 Game Advisory Committee had addressed some of these  
43 subsistence priority issues, Federal issues, we had a  
44 representative from the National Park Service and at that  
45 time they were wanting to request a time determinant type of  
46 residency requirement or the place of residency for Federal  
47 subsistence priority eligibility. At that time Clarence  
48 Summers was questioned quite a bit by the Anchorage Fish and  
49 Game Advisory Committee on the -- on association between the  
50 customary and traditional findings and the eligibility for

00142

1 the qualified users, and after quite a bit of questioning he  
2 had to concede that there was no relationship. In other  
3 words, to be eligible you only had to have your place of  
4 domicile in one of those areas. In other words, a person  
5 could come in from outside, even outside of Alaska and move  
6 into one of those communities and they would automatically  
7 become Federally subsistence qualified, even if they had no  
8 customary and traditional history.

9  
10 So for these reasons this is why the Anchorage Fish  
11 and Game Advisory Committee is placing our stamp of opposing  
12 all of these proposals.

13  
14 Thank you.

15  
16 CHAIRMAN LOHSE: Ben.

17  
18 MR. ROMIG: Yeah, this is -- what do you  
19 think of limited entry?

20  
21 MR. WRIGHT: I'm representing the Anchorage  
22 Fish and Game Advisory Committee and all that I can say about  
23 limited entry is that the Alaska Constitution had to be  
24 changed in order to provide for limited entry to occur.

25  
26 MR. ROMIG: You know, two wrongs don't make a  
27 right, and I agree with you too, that there shouldn't be --  
28 under the Constitution, if we're all, you know, equal, then  
29 we should be equal and we should share our resources. But,  
30 you know, as you look -- for instance, through the Kenai  
31 Canyon, the Feds issue, I think, is 25 permits for people to,  
32 you know, raft through there and, you know, and that's it.  
33 There's not -- you don't go into a lottery system or  
34 anything, you either have one or you don't have one. And  
35 there's all kinds of inconsistencies in the State of Alaska.  
36 With the Federal government in Kodiak 60 percent of the brown  
37 bear permits go to residents, 40 percent, basically, go to  
38 non-residents. And so there's all kinds of inconsistencies  
39 and that's what really has me mind boggled when we're dealing  
40 with these issues and, you know, I'll agree with you that,  
41 you know, that if -- you know, under the common clause we're  
42 all equal, but at the same time if you're really -- if you  
43 really pick the State apart there's a lot of issues that give  
44 exclusive rights to a lot of people.

45  
46 MR. WRIGHT: Through the Chair. Ben, to  
47 respond to that, there's a difference between land use  
48 permits and allocation of fish and game resources and what  
49 we're looking at is that type of difference in the scenario  
50 that you just described there. What we're talking about is

00143

1 allocation of the State's rights because in all other states  
2 it's the state that manages the fish and game resources.

3

4 MR. ROMIG: Right. But do you understand  
5 what I'm saying? Are you familiar with the Kodiak situation  
6 where 60 percent of the permits you and I can put in for and  
7 40 percent of them go to the local guides and the refuge only  
8 lets, you know, particular guides guide in certain areas, so  
9 essentially what they're doing is that they're giving 40  
10 percent of the bears in Kodiak to non-residents or people who  
11 can afford them up here. So that's just one -- you know,  
12 that's just one area I'd like to touch on, but there are a  
13 lot of things like that where people have permits. The  
14 Federal government will give them a permit to hunt in an area  
15 and every five years they renew it or every two years or  
16 whatever and they have to prove that they keep it clean and  
17 this and that and they get an exclusive area to hunt that  
18 area.

19

20 So, for instance, when we got ride of the exclusive  
21 area up here for big game hunting, the Feds came in and said,  
22 well, we're not going to have just a whole bunch of people  
23 guiding in these areas, we're going to have, you know, we're  
24 going to have people that we know of that run a clean  
25 business, we're going to give them permits to use these areas  
26 and it -- you know, so it's all kind of a mixed bag. In  
27 other words, there's a lot of inconsistencies and that's  
28 where I have a problem, not a real big problem, but that's  
29 where I have a problem when people come up to me and they  
30 say, well, how about the common clause, you know, we're all  
31 equal. Well, when you really pick apart the state and look  
32 at it, we're really not.

33

34 MR. WRIGHT: Well, Ben, through the Chair, to  
35 respond to that, I'd just like to point out a couple of other  
36 things in the Constitution that the Anchorage Fish and Game  
37 Advisory Committee has taken a look at, and that's the  
38 general authority under Article VIII, again, pertaining to  
39 the natural resources and that identifies that the  
40 Legislature shall provide for the utilization, development  
41 and conservation of all natural resources belonging to the  
42 State, including land and waters for maximum benefit of its  
43 people.

44

45 And then also in Section VIII under -- excuse me,  
46 Article VIII, under Section 4, they talk about the sustained  
47 yield and they specifically say fish, forest, wildlife,  
48 grasslands and all other replenishable resources belonging to  
49 the State shall be utilized, developed and maintained on the  
50 sustained yield principle.

00144

1 MR. ROMIG: Yeah.

2

3 MR. WRIGHT: And I think as all Alaskans we  
4 need to support our Alaska Constitution and take control and  
5 responsibility to be good stewards of our natural resources.

6

7 MR. ROMIG: Well, I'll agree with you there,  
8 but I'll also have to, you know, reiterate what I said before  
9 that there are inconsistencies and those are the things that  
10 frustrate me.

11

12 MR. WRIGHT: We're all frustrated by  
13 inconsistencies, we'd like to have things brought back into  
14 line to be consistent with the Alaska Constitution.

15

16 MR. ROMIG: Well, you know, for lacking a  
17 better way of doing it, I think, you know, everything is  
18 being managed pretty well. And I can see your concern with,  
19 you know, just having a big hodge-podge out there where you  
20 have co-management and you have one area -- you know, the  
21 sheep hunt up north was a good example this year where they  
22 had, you know, people that -- you know, they gave so many  
23 permits out the Feds did and then the State also gave out  
24 some permits and then these guys brought people in for these  
25 sheep hunts and they couldn't - they compromised somehow or  
26 another and -- but it was the inconsistencies, you know, of  
27 the Federal and of the State governments that, you know, it  
28 took coming right down to the wire and they finally managed  
29 something, they worked something out. I'm not exactly sure  
30 what they worked out, but it -- evidently they worked.....

31

32 MR. WRIGHT: Yes, through the Chair. Ben, on  
33 that one I mentioned this cooperative agreement between the  
34 U.S. Fish and Wildlife Service and the Alaska Department of  
35 Fish and Game. In that agreement they acknowledge that their  
36 -- because of the dual Federal/State wildlife management  
37 responsibilities in Alaska, which explains this dual  
38 situation that you're referring to, the Anchorage Fish and  
39 Game Advisory Committee not only feels that it is a dual  
40 management system, but in some cases it is very duplicative.  
41 In other words, we're reinventing the wheel. And we would  
42 like to have a very consistent type of wildlife management  
43 system.

44

45 MR. ROMIG: I agree with you.

46

47 CHAIRMAN LOHSE: Patrick, can I ask you a  
48 question? You brought out one thing in your statement right  
49 here, and possibly you can answer this to my satisfaction.  
50 The Constitution calls for management of the resources

00145

1 belonging to the State, are we currently in an unresolved  
2 legal battle right now as to whether the State has the  
3 ownership of fish and game resources on Federal land or the  
4 Federal government does? If I look at it correctly at this  
5 point in time, we have to different government entities  
6 claiming ownership of the same resource.

7

8 MR. WRIGHT: I think there is a difference in  
9 land management policies and in management of fish and  
10 wildlife or natural resources.

11

12 CHAIRMAN LOHSE: There has been in the past,  
13 in every other state, but through ANILCA didn't the Federal  
14 government usurp the authority, through Congress, of the  
15 management of fish and game resources on Federal lands? And  
16 that has not been settled in a court of law to anybody's  
17 satisfaction at this point in time?

18

19 MR. WRIGHT: That's probably true. And thank  
20 you, Chair, for bringing that point up because I know of no  
21 other state.....

22

23 CHAIRMAN LOHSE: You're right.

24

25 MR. WRIGHT: .....that has this type of  
26 system. Absolutely. In other words, Alaska is being treated  
27 differently than the other states and at the time that Alaska  
28 became a state we were entered into the Union with the same  
29 responsibilities and obligations as all of the other states  
30 in the Union and this is one place where we are being singled  
31 out and treated differently.

32

33 CHAIRMAN LOHSE: Oh, I agree with you 100  
34 percent, but until the point in time when that ownership is  
35 decided we have two government bodies claiming ownership  
36 management of the same resource and somehow, for the sake of  
37 the resource, management has got to take place until the  
38 decisions are made as to who owns it, to the best of our  
39 ability.

40

41 MR. WRIGHT: That's one of the reasons why  
42 the Anchorage Fish and Game Advisory Committee takes a look  
43 at all of these types of resource issues.

44

45 CHAIRMAN LOHSE: Thank you. Are there any  
46 other questions for Pat.

47

48 (No audible responses)

49

50 MR. WRIGHT: Thank you. Oh, through the

00146

1 Chair I'd like to just add one other thing about the about  
2 the letter that I rece -- oh, no, it was about the minutes of  
3 our meeting. I wanted to state that we presented the  
4 proposal booklet with the stamp to the Federal Subsistence  
5 Board and so instead of going through this Board, you already  
6 know what our position is on those, I'm not going to resubmit  
7 that here, but I will provide the letter to the Chair of the  
8 Federal Subsistence Board.

9

10 CHAIRMAN LOHSE: To the Federal Subsistence  
11 Board.

12

13 MR. WRIGHT: And, also, a copy of our agenda,  
14 so that you'll have it on record.

15

16 CHAIRMAN LOHSE: Thank you, much. I think  
17 sometimes we probably understand your frustration better than  
18 you do.

19

20 Okay, I believe I have all of the people who  
21 requested to speak on Proposal 3, have I missed somebody that  
22 submitted a request to speak on Proposal 3 at this point in  
23 time?

24

25 (No audible responses)

26

27 CHAIRMAN LOHSE: If not that concludes our  
28 public testimony on Proposal 3.

29

30 MS. EAKON: Summary of written comments.

31

32 CHAIRMAN LOHSE: Do you have some written  
33 comments?

34

35 MS. EAKON: I wanted to ask Terry Haynes,  
36 when you make your ADF&G comments you are going to  
37 incorporate what was sent to us, ADF&G's written comments  
38 that we produce in our books, right?

39

40 MR. HAYNES: Mr. Chairman, Helga. I may  
41 refer - I may repeat some of those, but we will -- the  
42 comments that you have there are on the proposals.

43

44 MS. EAKON: Right.

45

46 MR. HAYNES: What we'll add are comments  
47 based on staff analyses or amendments that may have been made  
48 at other Regional Council meeting and try to get current  
49 status of proposals.

50

00147

1 MS. EAKON: So I needn't even mentions those?

2

3 MR. HAYNES: It's entirely up to you and what  
4 the Council would prefer.

5

6 MS. EAKON: I need this clarification because  
7 in meetings past the coordinator would mention what ADF&G  
8 wrote.

9

10 CHAIRMAN LOHSE: What ADF&G has written to  
11 this point in time.

12

13 MS. EAKON: Has written, what they wrote down  
14 and the Commissioner signed and sent to us.

15

16 MR. HAYNES: If you'd like us to read out our  
17 comments that are in your books as part of the record.

18

19 MS. EAKON: Yes, please.

20

21 MR. HAYNES: Okay.

22

23 MS. EAKON: This is for the record.

24

25 CHAIRMAN LOHSE: That would probably be  
26 applicable and then we'd have it in the record.

27

28 MS. EAKON: Okay.

29

30 MR. HAYNES: Sure.

31

32 CHAIRMAN LOHSE: Okay.

33

34 MS. EAKON: In which case, Mr. Chair, there  
35 were no written public comments on this proposal.

36

37 CHAIRMAN LOHSE: Thank you, Helga.

38

39 Okay, that opens this proposal to Regional Council  
40 deliberation, recommendation, justification. Prior to  
41 discussion on the proposal we need a motion to accept the  
42 proposal. All motions need to be made in the positive. Do I  
43 hear a motion to accept Proposal 3?

44

45 MR. DEMENTI: So moved.

46

47 CHAIRMAN LOHSE: It's been moved by Gilbert  
48 Dementi to accept Proposal 3.

49

50 MS. SWAN: Seconded for purposes of

00148

1 discussion.

2

3 CHAIRMAN LOHSE: Seconded for purposes of  
4 discussion by Clare Swan.

5

6 Okay, at this point in time we're opened to  
7 deliberation or discussion. Don, would you like to start  
8 things off since it was your proposal to start off with.  
9 Anything you'd like to add to what you've already said?

10

11 MR. KOMPCKOFF: Yeah, I'd just like to add  
12 that after the earthquake in 1964 the people from Chenega  
13 moved, first, to Tatitlek and then -- no, first to Cordova,  
14 most of the residents were living in Cordova at the time from  
15 1971 moved to Tatitlek, had houses built over there. Some of  
16 the people stayed at Cordova and established a residence over  
17 there, residency over there. And some of the people moved to  
18 Anchorage, some moved to Kenai and my family -- I moved from  
19 -- I moved in 1979, I moved from Cordova to -- I moved to  
20 Anchorage in 1979, but I still hunt from all these different  
21 -- all the different -- 13(D), 13(A), 13(B), 13(C), 13(E),  
22 all the way up to Delta, 16(A) and Unit 11, 6(A), 6(B), 6(C)  
23 and 6(D) and 5(A). 5(A) I -- what my -- the only place that I  
24 never hunt was 5(A).

25

26 And there's some moose that were not recorded taken  
27 out of Kings Bay because we thought that we knew that it was  
28 going to be against the law, so we didn't report any. A lot  
29 of people got moose from Day Harbor, my brother got one from  
30 Day Harbor. I know three or four instances hunting in  
31 Federal land there. And while out goat hunting my brother  
32 run into a whole bunch of moose that were -- he said that he  
33 ran into about 15 moose, one time, and they hunted from his --  
34 he had a friend of his, they go over there and catch a moose  
35 in Day Harbor and they'd bring it back to Chenega. And they  
36 go to Whittier and go to Portage, in between the tunnels in  
37 Unit 7(A) or 7 and they catch a moose in between the tunnels  
38 from Portage and Whittier, between the two tunnels. And  
39 there's a lot of moose in there he hunted.

40

41 And I hunted across the Copper River on 6(B) and over  
42 on where's 6 -- I think it covers the Bering River. The  
43 Bering River here, 6(B), I guess, or 6(A). But I didn't have  
44 any luck killing any moose, but I hunted there. And I have  
45 my -- a lot of people from Chenega hunted from Tatitlek,  
46 Andrew, I know -- I know some instance where some guy would  
47 go -- five or six guys would go from Cordova and then on  
48 their boat they go to Bering River and catch a moose over in  
49 6(C) and several times I know some people that were from  
50 Chenega that went over and caught moose from there.

00149

1           And in Kings Bay I know two moose that was killed in  
2 there, two moose when I was living in Chenega then. And when  
3 I went to Tatitlek there was two moose caught from -- I know  
4 fellows that caught two moose from there, what they didn't  
5 want to leave a calf stranded, they killed a cow and a calf.  
6 And I was living in Tatitlek at the time when they caught  
7 those two moose from Kings Bay.

8  
9           And when I lived in Valdez it was in 1960, graduated  
10 in Valdez in 1960, I hunted moose all along the highway, I  
11 worked for the State highway, I hunted moose all the way to  
12 the Canadian border and all the way up to Anchorage, Palmer  
13 and that's the extent, all the way up to Circle or Cantwell.  
14 I hunted up -- went up the road up to Paxton, up there  
15 towards Fairbanks. I don't know what unit that is up there  
16 that's out of this Region 2, I think it's Region 9. I hunted  
17 moose up there also.

18  
19           And that's about all.

20  
21                   CHAIRMAN LOHSE: That's about all. Thank  
22 you, Don.

23  
24           Gilbert, have you got any questions or comments on  
25 this one?

26  
27                   MR. DEMENTI: You didn't hunt on Federal  
28 land, just State land?

29  
30                   MR. KOMPKOFF: Yes.

31  
32                   MR. DEMENTI: Oh, okay. There's -- I don't  
33 think you had C&T for any Federal land up there. It's on  
34 State land, right?

35  
36                   MR. KOMPKOFF: (Nods in the affirmative)

37  
38                   MR. DEMENTI: Okay.

39  
40                   CHAIRMAN LOHSE: Ben.

41  
42                   MR. ROMIG: Yeah, that's what I was going to  
43 say, it's State land, right, so we're dealing with a history  
44 that really doesn't belong in our department; is that  
45 correct?

46  
47                   CHAIRMAN LOHSE: Well, the issue in front of  
48 us is actually 6(A), 6(B) and 6(C), which is Federal land.  
49 And the issue in front of us is whether as villages, the  
50 village of Tatitlek or Chenega has made, you know, customary

00150

1 and traditional use of 6(A), 6(B) and 6(C) down through time  
2 enough to warrant a customary and traditional finding on it.  
3 As it's been pointed out by Tom, the one thing that's  
4 happened is the moose hunting in that area has not been there  
5 for a real long time period, we're talking a 40-year time  
6 period during which time, like Don was pointing out, a lot of  
7 people from Tatitlek and Chenega have lived in Cordova or in  
8 other places. And a lot of what Don has been telling us  
9 basically deals with the moose hunting of people from  
10 Tatitlek and Chenega, but mostly it's in other places other  
11 than 6(A), 6(B) or 6(C).

12  
13 MR. ROMIG: Uh-huh.

14  
15 CHAIRMAN LOHSE: We do have -- the have  
16 definitely taken moose in 6(A), 6(B) or 6(C) either -- mostly  
17 as residents of Cordova, Valdez or, you know, or as just  
18 residents of the state. I look at Chenega and Tatitlek, as I  
19 talked about it before, as members of Prince William Sound  
20 community and I recognize the fact that they have taken moose  
21 in that area, usually as either part of fish or as being --  
22 living in Cordova. And most of it took place while people  
23 have been living in Cordova or by Cordovans and shared.

24  
25 I share the same concerns that Tom does that  
26 individuals in those areas have taken moose there, but as a  
27 traditional site for the villages of Tatitlek and Chenega,  
28 Unit 13 and Unit 7 and Unit 6(D) is much more traditional.  
29 I'd -- I don't know. Again I'd have no problem supporting a  
30 C&T for it if I had some kind of insurance that this wouldn't  
31 end up becoming a special hunt that takes place out of the  
32 normal cycle of hunts, that everybody in Prince William Sound  
33 has equal access still.

34  
35 With the information that's been presented to me, I  
36 find it hard to support a C&T for Tatitlek and Chenega, you  
37 know, other than the fact recognizing that there has been an  
38 opportunistic moose or two taken while they're residents of  
39 someplace else. So.....

40  
41 MR. ROMIG: I guess I'd have to along with  
42 what you're saying.

43  
44 MS. SWAN: Mr. Chairman.

45  
46 CHAIRMAN LOHSE: Yes.

47  
48 MS. SWAN: You -- Tom, you said that -- you  
49 know, you guys didn't disagree with the fact that they could  
50 share the moose, that the residents.....

00151

1 MR. CARPENTER: Through the Chair, we -- the  
2 point that I was making was that there -- you know, as Don  
3 said, through -- since the earthquake there has been, you  
4 know, that went -- that moved from Chenega and Tatitlek to  
5 different locations, Valdez, Cordova, Kenai, Anchorage. And  
6 to this day there are still a lot of those people that live  
7 in Cordova, a lot of them remain there permanently, a lot of  
8 them, I think, plan on remaining there permanently. I think  
9 when the staff talked about the villages sharing moose, it's  
10 very possible, and what happened quite often, was that  
11 Cordova residents being them from Chenega or Tatitlek or  
12 somewhere else, they're Cordova residents harvest a moose in  
13 6(A), (B) or (C) and some of that meat would get back to the  
14 village, you know, through the people that had moved to  
15 Cordova throughout time. There's no question that there was  
16 that, but the overall harvest picture is not there.

17  
18 And the real problem we have and this was a concern  
19 after the '97 C&T when Eyak Village was granted a special  
20 permit out of the season to harvest a moose for a potlatch.  
21 If I could tell you what disgruntled people of Cordova can  
22 act like, it divided the town and that's the -- that's not  
23 what a potlatch is for and that's not what a moose hunt is  
24 for and we feel that the possibility of this happening again  
25 is very possible and that's one of our concerns.

26  
27 Thanks.

28  
29 MS. SWAN: And then you had a -- did I get  
30 this -- hear you correctly, that there were four moose taken  
31 there in 12 years in that area?

32  
33 MR. CARPENTER: I couldn't quote for sure,  
34 but in the staff report I believe it said, village of Chenega  
35 there were four moose taken from '85 to '97, three of those  
36 were in Unit 13 and one in Unit 16, none in Unit 6, which is  
37 what the proposal calls for.

38  
39 MS. SWAN: Thank you.

40  
41 MS. MASON: Mr. Chairman.

42  
43 CHAIRMAN LOHSE: Rachel.

44  
45 MS. MASON: If I could clarify. That's on  
46 page 11, the figures that Mr. Carpenter was referring to, the  
47 next to the last paragraph, it's talking about the recorded  
48 harvest tickets for Chenega Bay residents.

49  
50 CHAIRMAN LOHSE: If I may add something here.

00152

1 You can't speak for all the units, 6(A), 6(B) and 6(C), but  
2 the unit that has the drawing in it is right next to town and  
3 that unit has always been the -- the moose hunting in that  
4 unit has always been very carefully documented. It's not  
5 something that somebody goes out and takes a moose and takes  
6 it someplace else. Unit (B) which also has only access in  
7 and out and that's across the Copper River Bridge has also  
8 been very documented. The possibility of -- is it 6(A), down  
9 in Bering River, moose being taken there and not reported is  
10 a lot more probably simply because Unit 6(A) is normally  
11 visited during the silver salmon season by people with boats.  
12 And a boat could go out of there and not stop in Cordova or  
13 not stop someplace where there was a place to report it.  
14 That gives you a little bit more background on the area to  
15 help you with your decision.

16  
17 MR. KOMPCKOFF: Mr. Chairman.

18  
19 CHAIRMAN LOHSE: Don.

20  
21 MR. KOMPCKOFF: Where is it documented where  
22 my brother and his wife had a drawing from -- what is that a  
23 State permit or.....

24  
25 CHAIRMAN LOHSE: That's a State permit and,  
26 Don, would she had by any chance been using a Cordova address  
27 at that time?

28  
29 MR. KOMPCKOFF: Probably was, yes.

30  
31 CHAIRMAN LOHSE: Yeah, see, that's where the  
32 issue comes in is that most of the moose that were taken in  
33 6(A), 6(B) or 6(C) by what we would consider Chenega or  
34 Tatitlek people were taken while they were residents of  
35 Cordova and they used a Cordova address.

36  
37 MR. KOMPCKOFF: Okay. But that's it then,  
38 huh? They were living in Cordova.....

39  
40 CHAIRMAN LOHSE: Yeah, they were living in  
41 the Cordova area at the time.

42  
43 Do we need any further discussion, are we ready for  
44 the question?

45  
46 MR. KOMPCKOFF: Question.

47  
48 CHAIRMAN LOHSE: Question. Don has called  
49 for the question, so all in favor of Proposal 3, finding a  
50 C&T for moose in Unit 6(A), (B) and (C) for Tatitlek and

00153

1 Chenega signify by saying aye.

2  
3 MR. KOMPKOFF: Aye.

4  
5 CHAIRMAN LOHSE: All opposed signify by  
6 saying nay.

7  
8 CHAIRMAN LOHSE: Nay.

9  
10 MR. ROMIG: Nay

11  
12 MS. SWAN: Nay.

13  
14 MR. DEMENTI: Nay.

15  
16 CHAIRMAN LOHSE: You abstained?

17  
18 MR. ROMIG: Nay.

19  
20 CHAIRMAN LOHSE: Motion doesn't carry.

21 Again, that's not denying that the fact.....

22  
23 MR. DEMENTI: Four nays?

24  
25 CHAIRMAN LOHSE: Huh?

26  
27 MR. DEMENTI: Four nays?

28  
29 CHAIRMAN LOHSE: Four nay, one aye. That's  
30 not denying the fact that Chenega and Tatitlek people have  
31 moose in a lot of different places in the past.

32  
33 With that, what time have we got?

34  
35 MS. MASON: 5:25.

36  
37 MS. SWAN: We need to break.

38  
39 CHAIRMAN LOHSE: Huh?

40  
41 MS. SWAN: We need to break.

42  
43 CHAIRMAN LOHSE: Well, I was just going to  
44 ask the Council and everybody else here, do you wish to take  
45 up the next proposal tonight or shall we put it off till  
46 morning?

47  
48 MS. SWAN: I move to adjourn.

49  
50 CHAIRMAN LOHSE: You move to recess.

00154

1 MS. SWAN: Or recess.

2

3 MR. DEMENTI: Recess till tomorrow.

4

5 CHAIRMAN LOHSE: We have a move to recess  
6 until 8:00 o'clock tomorrow morning. Before we do that, I'd  
7 like to ask Helga a question.

8

9 MS. EAKON: Uh-huh.

10

11 CHAIRMAN LOHSE: At this point in time, does  
12 it look like we will be able to get through the rest of the  
13 agenda tomorrow?

14

15 MS. EAKON: If we start promptly at 8:00  
16 o'clock and be real focused and not go off on tangents, I  
17 think we can.....

18

19 CHAIRMAN LOHSE: Are you talking to me?

20

21 MS. EAKON: There's a good possibility of  
22 adjourning by, say, 5:30, okay?

23

24 CHAIRMAN LOHSE: Okay. If we don't stay on  
25 focus and if we do get off on tangents we're probably going  
26 to have to request that we have a meeting that extends into  
27 tomorrow night or it goes till Thursday. So it's up  
28 everybody that would like to get out tomorrow night to stay  
29 on track.

30

31 MS. SWAN: Can we leave these here?

32

33 CHAIRMAN LOHSE: Yes, leave everything right  
34 here.

35

36 MS. EAKON: Yes, you may leave everything  
37 here, Mr. Chair, because they're going to lock the doors  
38 after us.

39

40 CHAIRMAN LOHSE: You have to vamoose by noon?  
41 Don has an additional meeting starting tomorrow, so Don will  
42 be gone at noon tomorrow, Fred John, Jr. should be back.

43

44 MS. EAKON: And Roy Ewan said he'll be her  
45 tomorrow.

46

47 CHAIRMAN LOHSE: He will be here tomorrow?

48

49 MS. EAKON: That's what he told me.

50

00155

1                   CHAIRMAN LOHSE: Okay. So we will have a  
2 quorum tomorrow.

3  
4                   MS. EAKON: Yes.

5  
6                   CHAIRMAN LOHSE: Thank you, Don.

7  
8                   (Off record - 5:30 p.m.)

9  
10                   (MEETING RECESSED)

00156

C E R T I F I C A T E

UNITED STATES OF AMERICA )  
 ) ss.  
STATE OF ALASKA )

I, Joseph P. Kolasinski, Notary Public in and for the  
State of Alaska and Owner of Computer Matrix, do hereby  
certify:

THAT the foregoing pages numbered 02 through 155  
contain a full, true and correct Transcript of VOLUME I,  
SOUTHCENTRAL ALASKA FEDERAL SUBSISTENCE REGIONAL COUNCIL  
PUBLIC MEETING, taken electronically by myself on the 23rd  
day of March, 1999, beginning at the hour of 8:25 o'clock  
a.m. at the Day's Inn Conference Center, Anchorage, Alaska;

THAT the transcript is a true and correct transcript  
requested to be transcribed and thereafter transcribed by  
under my direction to the best of my knowledge and ability;

THAT I am not an employee, attorney, or party  
interested in any way in this action.

DATED at Anchorage, Alaska, this 30th day of March,  
1999.

---

Joseph P. Kolasinski  
Notary Public in and for Alaska  
My Commission Expires: 4/17/00